

.....  
September 25, 2006

Date .....

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 7, 2006, its members voted 13-0 to **DENY** a request from Parker Street Foundation (owner) represented by Jack Sawyer (officer) to rezone property located at 1211 Davis Street from the "R1-70" One-Family Low-Density Residential District to the "R-2" One- and Two-Family Residential District to allow legal conversion of the property to a two-family dwelling.

The subject property is more specifically described as follows:

Parcel "B": All that part of Lots 14 and 16 in the Official Plat of Section 16, Township 78 North, Range 24 West of the 5<sup>th</sup> P.M., Polk County, Iowa, more particularly described as follows:  
Commencing at the Northwest corner of said Lot 16, thence South 88°45'24" East, along the North line of said Lot 16, a distance of 308.95 feet; thence South 89°30'05" East, a distance of 72.62 feet, to the Point of Beginning thence North 01°06'36" East, a distance of 67.30 feet; thence North 00°54'21" East, a distance of 172.00 feet; thence South 89°05'39" East, a distance of 83.00 feet; thence South 00°54'21" West, a distance of 172.00 feet; thence South 89°05'39" East, a distance of 20.00 feet; thence South 01°16'34" West, a distance of 66.57 feet; thence South 00°35'12" West, a distance of 197.17 feet; thence North 89°43'39" West, a distance of 100.38 feet; thence North 00°07'08" West, a distance of 197.57 feet to the Point of Beginning.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed rezoning and "PUD" conceptual plan is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on October 9, 2006, at which time the City Council will hear both those who oppose and those who favor the proposal.

( continued )

★ **Roll Call Number**

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2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown  
Assistant City Attorney

(ZON2006-00105)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLASSIS				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

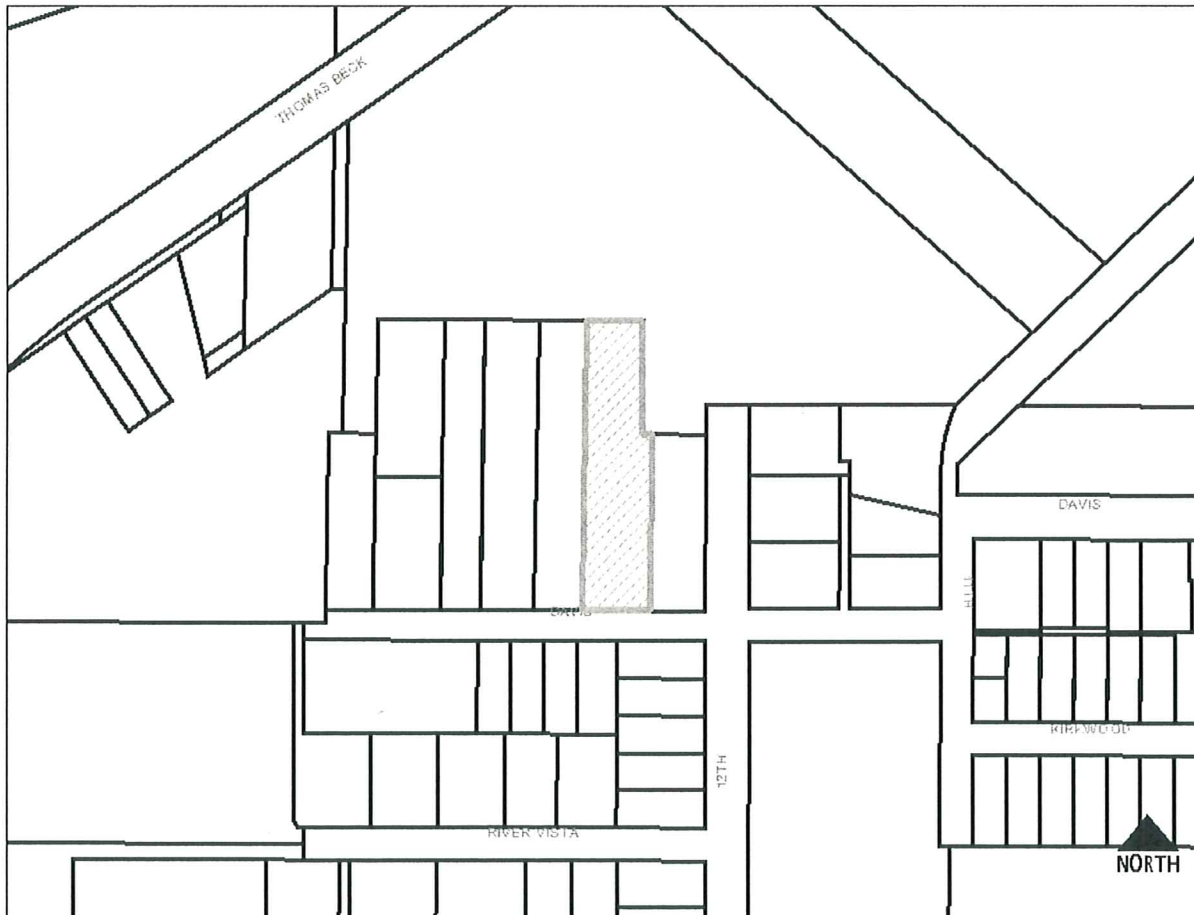
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Request from Parker Street Foundation (owner) represented by Jack Sawyer (officer) to rezone property located at 1211 Davis Street.			File #		
			ZON2006-00105		
<b>Description of Action</b>	Rezone subject property from "R1-60" One-Family Low-Density Residential District to "R-2" One- and Two-Family Residential District to allow legal conversion of the property to a two-family dwelling.				
<b>2020 Community Character Plan</b>	Low-Density Residential.				
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements.				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District.				
<b>Proposed Zoning District</b>	"R-2" One- and Two-Family Residential District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	0	4	0	<20%	
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	13-0		No	

Parker Street Foundation - 1211 Davis Avenue

ZON2006-00105



September 25, 2006

Date \_\_\_\_\_

Agenda Item 19

Roll Call # \_\_\_\_\_

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held September 7, 2006, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier				X
Brian Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace	X			

**DENIAL** of a request from Parker Street Foundation (owner) represented by Jack Sawyer (officer) to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential for property located 1211 Davis Street. (21-2006-4.14)

By same motion and vote, members moved for **DENIAL** of a request to rezone subject property from the "R1-70" One-Family Low-Density Residential District to the "R-2" One- and Two-Family Residential District to allow legal conversion of the property to a two-family dwelling. (ZON2006-00105)

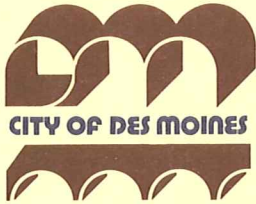
Written Responses

0 In Favor  
4 In Opposition

*This item would not require a 6/7 vote by City Council as a result of opposition.*

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Staff recommends denial of the requested amendment to the Des Moines 2020 Community Character Plan and requested rezoning.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property contains a 2,348 square foot structure that was original constructed as a single-family dwelling. The applicant indicates the building was converted to a duplex in 1961. The applicant purchased the property on January 4, 2005, with the intention of rehabbing the property and selling it to a low-income individual that could live in one unit and rent out the other for extra income. The property has no legal non-conforming rights. There is no record of a rental certificate ever being issued for this property and the second unit was vacant prior to the applicant purchasing the property.
2. **Size of Site:** 41,215 square feet.
3. **Existing Zoning (site):** "R1-70" One-Family Low-Density Residential District and Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Vacant residential building.
5. **Adjacent Land Use and Zoning:**
  - North* – "M-1", Uses are vacant land and light industrial.
  - South* – "R1-60" & "R1-70", Uses are single-family dwellings.
  - East* – "R1-70", Use is single-family dwelling.
  - West* – "R1-70", Use is single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The subject site is located along the northern edge of the Greater South Side Neighborhood near the Lincoln High School athletic fields. The surrounding area is predominately consists of single-family dwellings.
7. **Applicable Recognized Neighborhood(s):** Greater South Side Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

### II. ADDITIONAL APPLICABLE INFORMATION

1. **Traffic/Street System:** Staff believes that the proposed rezoning would have no impact on the street system.
2. **Access/Parking:** The submitted site sketch does not indicate the number of off-street parking spaces. The subject site is large and the provision of ample parking should not be a problem. Parking will be evaluated further though the permitting process if the request is approved.

3. **2020 Community Character Plan:** The City's Land Use Plan identifies this area as "Low-Density Residential," which matches the existing development pattern of the neighborhood. The protection of the City's traditional neighborhoods is a goal of the 2020 Community Character Plan. Staff believes the requested amendment is counter to this goal and recommends denial of the request.

## **SUMMARY OF DISCUSSION**

Jason Van Essen: Presented staff report and recommendation. Noted there is no record of a rental certificate so there are no grandfathering rights and the property can be used as a single-family structure.

*Fran Koontz left the meeting at 6:43 p.m.*

Robert Harkrader, 30999 R Avenue, Adel, Iowa: Spoke on behalf of the applicant and asked why there would be no grandfathering clause since it had never been used for anything other than a duplex since the 1960's, although both sides had not been utilized for residence.

Larry Hulse: Noted the records did not indicate it had ever been legally utilized as a duplex. If it was a duplex there should have been a rental certificate and there is no record of there ever being one. Explained the Board of Adjustment would need to grant a variance.

Robert Harkrader: Noted the applicant will lose economical value and indicated everything had been set up for a duplex with separate kitchens and bathrooms. Felt it was unfair to the applicant. Explained there are no doors between the north part of the house and the south part of the house.

David Cupp: Asked how the tax rolls have it listed; as a duplex or as a single-family.

Jason VanEssen: Explained the use is what was being looked at. Noted it is assessed as a two-family dwelling, but zoning and how it is assessed are two different questions.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following individuals spoke in opposition:*

Pam Brennan, 1139 Davis Avenue: Just to the east across the 12<sup>th</sup> Street right-of-way of the subject property. Objected to the rezoning for several reasons:

- Concerned about the results of a PERK test that was done;
- Water has been known to back up into the basement drain of the subject property;
- The septic tank is unable to handle the single-family dwelling and would be inadequate for a two-family dwelling;
- Septic tank inspections should be reviewed to determine the adequacy of the septic system.

Trelen Wilson, 1235 Davis Avenue: Expressed the following concerns:

- septic system; noted there is no drain field;
- did not believe it to be a hardship for the applicant;
- maintaining the character of the neighborhood;
- preserving the value of the surrounding properties.

Linda Bender, 1235 Davis Avenue: Opposed; would like the integrity of the single-family neighborhood maintained.

Cathy Farnsworth, 2302 SW 12<sup>th</sup>: Also expressed concern regarding the integrity of the neighborhood; applicant does not take care of his property; land is overgrown.

Mike Nelson, 1224 Davis Avenue: Has a multi-family in the neighborhood; has a rental certificate. Noted the applicant is a long-distance landlord and does not maintain the property.

Ted Nelson, 1224 Davis Avenue: Expressed concern for the substandard condition of the house.

Trelen Wilson, 1235 Davis Avenue: Feared the subject property would be sold on contract and the septic tank concern would not be resolved.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Robert Harkrader: Explained the concern of the two separate kitchens mentioned by the speakers. Also spoke to the remodeling that was being done and noted there was never an entrance between the south and north apartments.

David Cupp: Asked if he was familiar with the issues of the property the neighbors had brought up.

Robert Harkrader: Noted the illegal septic concern is questionable and noted there is unlikely laterals, but he did not know. Indicated the exit of the sewer system is going out into the side of a hill.

Mike Simonson: Moved staff recommendation for denial.

David Cupp: Offered a friendly amendment to direct staff to contact the board of health to tend to the septic system problem as a health hazard.

Marc Wallace: Explained real estate transactions aren't always "fair" and it is up to the property owner to ensure things are taken care of on their property. Maintenance of the property does not have anything to do with the zoning. Asked the neighbors to remain active and vigilant to stay on top of the enforcement issues.

Motion for denial passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment

Item 2006 00105

Date 8-31-06

I (am)  (am not) in favor of the request.

(Circle One)

RECEIVED

SEP 08 2006  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Dennis & Greta Shannon

Signature Greta Shannon

Address 2312 SW 12th st, 50315

Reason for opposing or approving this request may be listed below:

I am not in favor of having more rental property in the neighborhood. I would prefer that this property is returned to single family housing. This is a long distance owner trying to get rid of a house in very poor condition at a high price under the guise of an humanitarian deed. He is out to dump it, take the m...

Item 2006 00105

Date AUGUST 11 2006

I (am)  (am not) in favor of the request.

(Circle One)

RECEIVED

AUG 15 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name LINDA BENDER

Signature Linda Bender

Address 1235 DAVIS

Reason for opposing or approving this request may be listed below:

PREFER TO KEEP R1-60

OWNER IS KNOWN TO LET PROPERTY "RUN DOWN". DON'T WANT TO ENCOURAGE THIS BEHAVIOR



Item 2006 00105

Date 8/8/06

I (am) (am not) in favor of the request.

(Circle One)



RECEIVED

AUG 11 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Kathleen Faensworth

Signature Kathleen A. Faensworth

Address 2302 SW 12th

Reason for opposing or approving this request may be listed below:

Owner does not maintain lots. Does not trim shrubs lots are over grown. Does not respect building codes unless forced to due to neighbors complaining. Home is infested w/ vermin + should be destroyed.

Item 2006 00105

Date 8-15-06

I (am) (am not) in favor of the request.

(Circle One)



Print Name Esther Stundins

Signature Esther Stundins

Address 1212 Davis Ave

Reason for opposing or approving this request may be listed below:

Do not want two low income homes on our block.