

Date..... October 9, 2006

RESOLUTION CLOSING THE PUBLIC HEARING  
AND DENYING REZONING

WHEREAS, on September 25, 2006, by Roll Call No. 06-1873, it was duly resolved by the City Council that the application of Parker Street Foundation (owner) represented by Jack Sawyer (officer), to rezone property in the vicinity of 1211 Davis Street, from the "R1-70" One-Family Low-Density Residential District to the "R-2" One and Two-Family Residential District classification, be set down for hearing on October 9, 2006, at 5:00 P.M., in the Council Chambers of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on September 28, 2006, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Plan and Zoning Commission has recommended that the rezoning be denied for the reasons set forth in the accompanying letter from the Planning Administrator; NOW THEREFORE,

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning are hereby sustained, and the hearing is closed.
2. The proposed rezoning of the property described above to the "R-2" One and Two-Family Residential District classification is hereby denied for the reasons recommended by the Plan and Zoning Commission and identified in the accompanying letter from the Planning Administrator.

MOVED by \_\_\_\_\_ to adopt and DENY the rezoning.

( continued )

Date..... October 9, 2006

**NOTE:** The motion to deny the rezoning may be approved by a majority of quorum. The favorable vote of at least 5 of the 6 remaining members of the City Council is required to approve the rezoning due to the recommendation for denial from the Plan and Zoning Commission. If the City Council desires to approve the rezoning, an appropriate motion would be: "to continue the public hearing until October 23, 2006, and to direct the Legal Department to prepare the necessary legislation to approve the rezoning."

FORM APPROVED:

*Roger K Brown*  
 Roger K. Brown

Assistant City Attorney

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

MOTION CARRIED

APPROVED

\_\_\_\_\_ Mayor

**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.

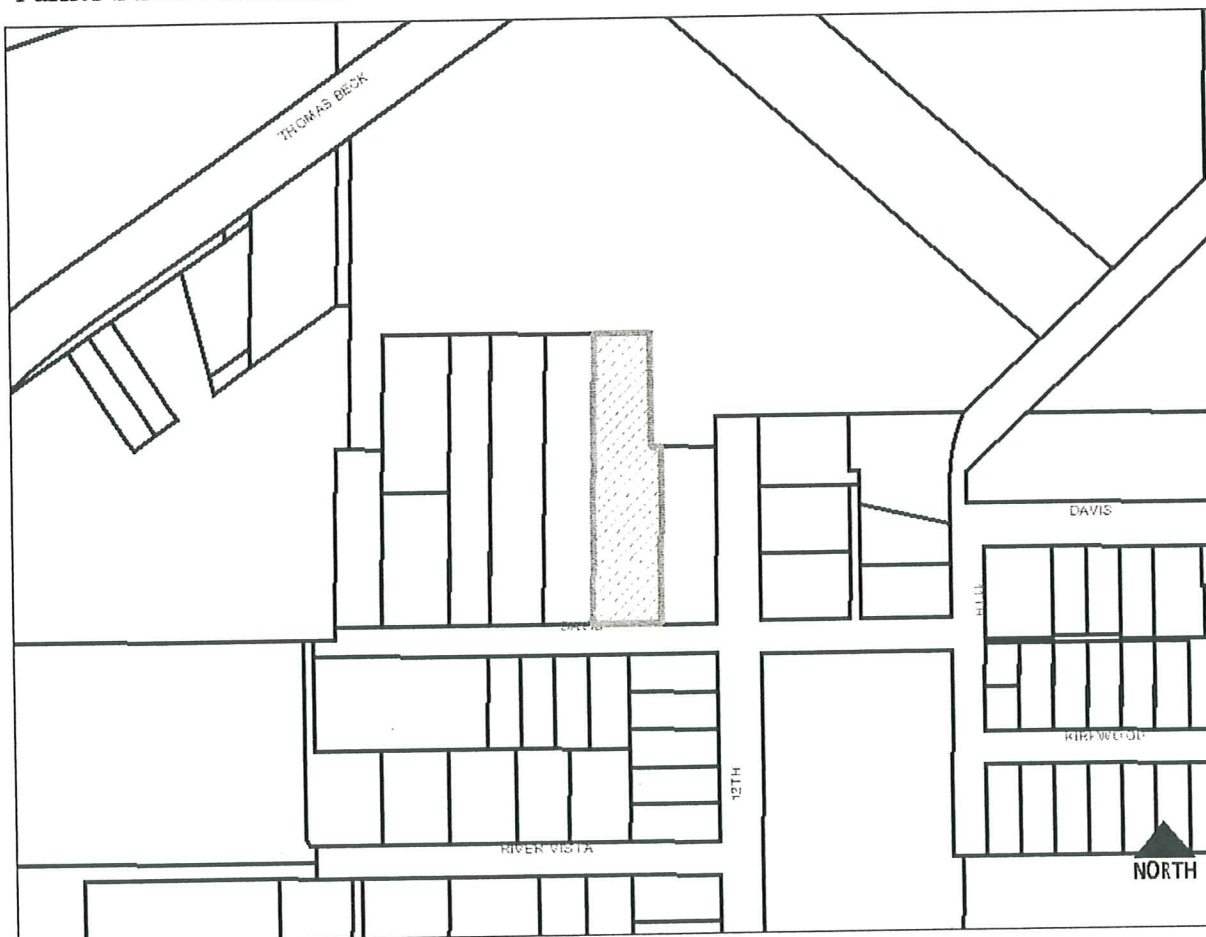
\_\_\_\_\_ City Clerk

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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



October 9, 2006

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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			



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

**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.

## 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.

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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.

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 passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment

Item 2006 00105

Date 8/8/06 63

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.



Item 2006 00105

Date 8-31-06

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

RECEIVED  
SEP 09 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 neighbor hood  
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

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 RI-60

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