



Date November 24, 2008

WHEREAS, on October 27, 2008, by Roll Call No. 08-1845, it was duly resolved by the City Council that the application of Stratford Holding, LLC, to rezone property owned by it and located in the vicinity of 1930 Indianola Avenue, more fully described below, be set down for hearing on November 10, 2008, at 5:00 p.m., in the Council Chambers at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register on October 30, 2008, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and

WHEREAS, on November 10, 2008, by Roll Call No. 08-2006, it was duly resolved by the City Council to open the initial hearing, and to continue the hearing until the meeting of the City Council on November 24, 2008 at 5:00 p.m. in the Council Chambers at City Hall; 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 Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

(Except Street) - Lots 8 thru 12. East of Line beginning 170.9 feet SW of SE corner Lot 8 thence Northwesterly 184.7 feet North line Lot 12 First Plat of Clifton Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the C-1 Neighborhood Retail Commercial District to a Limited C-2 General Retail and Highway Oriented Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property which is binding upon the owners and their successors, heirs and assigns as follows:

- A. Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
- B. The site, including landscaping, shall be brought into conformance with an approved Site Plan.
- C. Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.

**Date** November 24, 2008

- D. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.
- E. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.
- F. No materials or equipment related shall be stored outside of a building.
- G. The trash and waste oil tank enclosure is made of significant construction (concrete block, brick) with steel gates.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property to a Limited C-2 District are hereby overruled, and the hearing is closed.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

APPROVED AS TO FORM:



\_\_\_\_\_  
 Michael F. Kelley  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
<b>TOTAL</b>				
<b>MOTION CARRIED</b>		<b>APPROVED</b>		
_____ 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

Date \_\_\_\_\_  
 Agenda Item 22  
 \_\_\_\_\_  
08-1845  
45

October 22, 2008

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 October 16, 2008, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 8-4 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty		X		
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin		X		
Brian Millard		X		
Mike Simonson	X			
Kent Sovern		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

**APPROVAL** of a request from R Way's, Inc. Indy Road Auto (lessee) represented by Don Roberts (officer) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan and to rezone property located at 1930 Indianola Avenue from "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway Oriented Commercial District, to allow for reuse of the property for Garage for general motor vehicle repair subject to the owner of the property agreeing to the following conditions: (ZON2008-00145)

1. Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
2. The site, including landscaping, shall be brought into conformance with an approved Site Plan.
3. Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.
4. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.
5. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.

6. No materials or equipment related shall be stored outside of a building.
7. The trash and waste oil tank enclosure is made of significant construction (concrete block, brick) with steel gates.

Written Responses

1 In Favor  
0 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the requested rezoning with the recommended conditions be found in conformance with the Des Moines' 2020 Community Character Plan's future land use designation of Commercial: Pedestrian-Oriented, Commercial Corridor.

Part B) Staff recommends approval of the requested rezoning subject to the owner of the property agreeing to the following conditions:

1. Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
2. The site, including landscaping, shall be brought into conformance with an approved Site Plan.
3. Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.
4. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.
5. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.
6. No materials or equipment related shall be stored outside of a building.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking the rezoning to allow for the existing garage for general motor vehicle repair that has illegally occupied the building following vacancy by an auto glass repair facility. The only "C-2" District use being requested is a garage for general motor vehicle repair.
2. **Size of Site:** 16,999 square feet (0.39 acres).
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District and "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Garage for general motor vehicle repair.
5. **Adjacent Land Use and Zoning:**

*North – "C-1", "C-0", & "R-3", Uses are Columbus Park and St. Anthony's Church and School.*

*South – "C-1", Uses are Tortilla Sonora bakery, Designers Clinic tanning spa, and Electronic Office Systems.*

**East** – “C-1” & “R1-60”, Use is Columbus Park.

**West** – “C-1”, Use is single-family dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located at a neighborhood commercial node where Indianola Road intersects with the realigned Indianola Avenue.
7. **Applicable Recognized Neighborhood(s):** McKinley/Columbus Park Neighborhood.
8. **Relevant Zoning History:** N/A
9. **2020 Community Character Land Use Plan Designation:** Commercial: Pedestrian-Oriented, Commercial Corridor.
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. **Landscaping & Buffering:** The site is developed based on the original site development of a gas station. Additional landscaping was added with a site plan for the conversion of the property to the Auto Glass Shop in 2003. It appears some of the shrubbery was removed or never installed. Staff recommends that the site be brought into conformance with the approved landscaping plan.  
  
There is not a buffer yard or any screening fence on the site. None was required at the time of the approved site plan due to adjoining properties being commercially zoned. A buffer yard would not likely be effective because the site sits lower in elevation than the adjoining residential uses to the south and west.
2. **Traffic/Street System:** The intersection improvement for Indianola Avenue and Indianola Road created an irregular shaped portion of right-of-way on the north side of the site and took part of the original site so that there is not a landscape perimeter on the private property adjoining the public right-of-way. However, there is a short retaining wall at the property line and significant green space within the public right-of-way adjoining the site.
3. **Access or Parking:** There is access to the site from both Indianola Avenue and Indianola Road via a long driveway extension through the public right-of-way. It appears the parking on the site is different than the site plan approved in 2003. The lot should either be striped in accordance with the approved plan or a new plan should be submitted to indicate the current parking pattern. Staff believes that in such proximity to residential use, inoperable vehicles should be kept indoors if remaining on the premises for more than a 24-hour period in an inoperable condition.
4. **2020 Community Character Plan:** Staff believes that the scale of the developed site is within the neighborhood scale intended by the Commercial: Pedestrian-Oriented, Commercial Corridor designation. The applicant is only proposing the repair use from the list of the “C-2” permitted uses. Therefore, the expected future uses would not generally be auto-oriented.

Staff believes that the adjoining surrounding residential neighborhood would be served by restricting the property to hours of operation allowed in the "C-1" District for any "C-1" District use and prohibiting the premises from being operated between 10:00 PM and 6:00 AM for any garage for general motor vehicle repair. Staff further believes that no materials (such as waste tires or other vehicle parts) should be stored outside of a building.

## **SUMMARY OF DISCUSSION**

Erik Lundy presented the staff report and recommendation.

Brian Millard asked if there was a requirement for a trash enclosure.

JoAnne Corigliano stated that she has no problem with the business. However, she questioned the need for another south side garage and asked if there is any way to establish some type of screening that will not completely hide the business.

Mike Ludwig stated that staff will work with the applicant to see if there is an opportunity to plant some landscaping in the right-of-way.

Dann Flaherty asked if the parking stalls are in place.

Erik Lundy stated that the parking exists and the applicant must conform with or amend the plan.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Don Roberts, 126 SE Phillip stated he assumed that because the property was previously an auto glass shop he did not need a zoning change for his garage.

Bruce Heilman asked about the vehicle that had a for sale sign on it.

Don Roberts stated that once they found out they could not sale vehicles, they immediately took the sign down. He explained that the vehicle was owned by one of his customers and he asked if he could park the vehicle with a sale sign on it.

Bruce Heilman asked if he was in agreement with the six staff recommendations.

Don Roberts stated that he had no objections.

Jim Martin asked if the snow plow and storage tank would be moved inside or was the applicant going to build another structure around back.

Don Roberts stated they will confine the dumpster and the storage tank as was requested at the neighborhood meeting, but the snow plow is not mounted right now and the pickup moves.

Jim Martin asked if the waste oil tank will be moved inside.

Don Roberts stated that it will be enclosed with the trash dumpster.

*There was no one in the audience to speak on this item.*

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Brian Millard offered a friendly amendment that the trash and waste oil tank enclosure be constructed with significant material (concrete block, brick) with steel gates.

08-18-15  
122  
45

Greg Jones accepted the friendly amendment.

Brian Millard stated that the site is too small, the building is small, the repair ends up happening outside which becomes an issue for enforcement and the neighborhood ends up suffering so he will be voting against it.

Greg Jones moved that the requested rezoning with the recommended conditions be found in conformance with the Des Moines' 2020 Community Character Plan's future land use designation of Commercial: Pedestrian-Oriented, Commercial Corridor and approval of the requested rezoning subject to the owner of the property agreeing to the following conditions:

1. Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
2. The site, including landscaping, shall be brought into conformance with an approved Site Plan.
3. Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.
4. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.
5. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.
6. No materials or equipment related shall be stored outside of a building.
7. The trash and waste oil tank enclosure is made of significant construction (concrete block, brick) with steel gates.

Motion passed 8-4 (Sovern, Flaherty, Martin, Millard opposed).

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Item ZON2008-00145

Date 10-8-08 <sup>08-10-08</sup> ~~10-8-08~~

45

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

(Circle One)  
**RECEIVED**

OCT 09 2008



Print Name Tina Reed

Signature Tina Reed

Address 1956 S. Union Street

COMMUNITY DEVELOPMENT  
DEPARTMENT

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

I moved to this area because it is a Residential  
area. Sorry, but I don't want to see a  
bunch of Junk Cars, Oil Tanks & etc  
in the parking lot.

Item ZON2008-00145

Date 10-8-8

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

(Circle One)  
**RECEIVED**

OCT 09 2008

Print Name Frank & Ellen Celsi

Signature Ellen Celsi

Address 131 Hartford DM5031

COMMUNITY DEVELOPMENT  
DEPARTMENT

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_