

September 13, 2010

Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 19, 2010, its members voted 10-1-1 in support of a motion to recommend **APPROVAL** of a request from KLM International (contract buyer), to rezone property located at 901 19th Street and 930 18th Street, from "R-3" Multiple-Family Residential District and "R-HD" Residential Historic District to "NPC" Neighborhood Pedestrian Commercial District, to allow the property to be developed in accordance with NPC design guidelines allowing placement of a historic gas station building for use as a teen center operated as part of KLM Ministries.

The subject property is more specifically described as follows:

"R-3" to "NPC"

North 30 feet of Lot 72 and all Lots 73 thru 76, West 7 feet of vacated alley lying East of and adjacent to the North 30 feet of Lot 72 and all Lot 73 and all vacated alley lying East of and adjacent to Lots 74 thru 76, T. E. Browns Addition, an Official Plat, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

"R-HD" to "NPC"

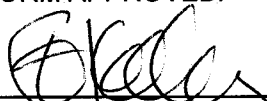
East 7 feet of vacated alley lying west of and adjacent to the North 30 feet of Lot 81 and all of Lot 80, T. E. Browns Addition, an Official Plat, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

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 is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on September 27, 2010, at which time the City Council will hear both those who oppose and those who favor the proposal.
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.

FORM APPROVED:

Moved by _____ to adopt.



Michael F. Kelley, Assistant City Attorney

(ZON2010-00128)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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.

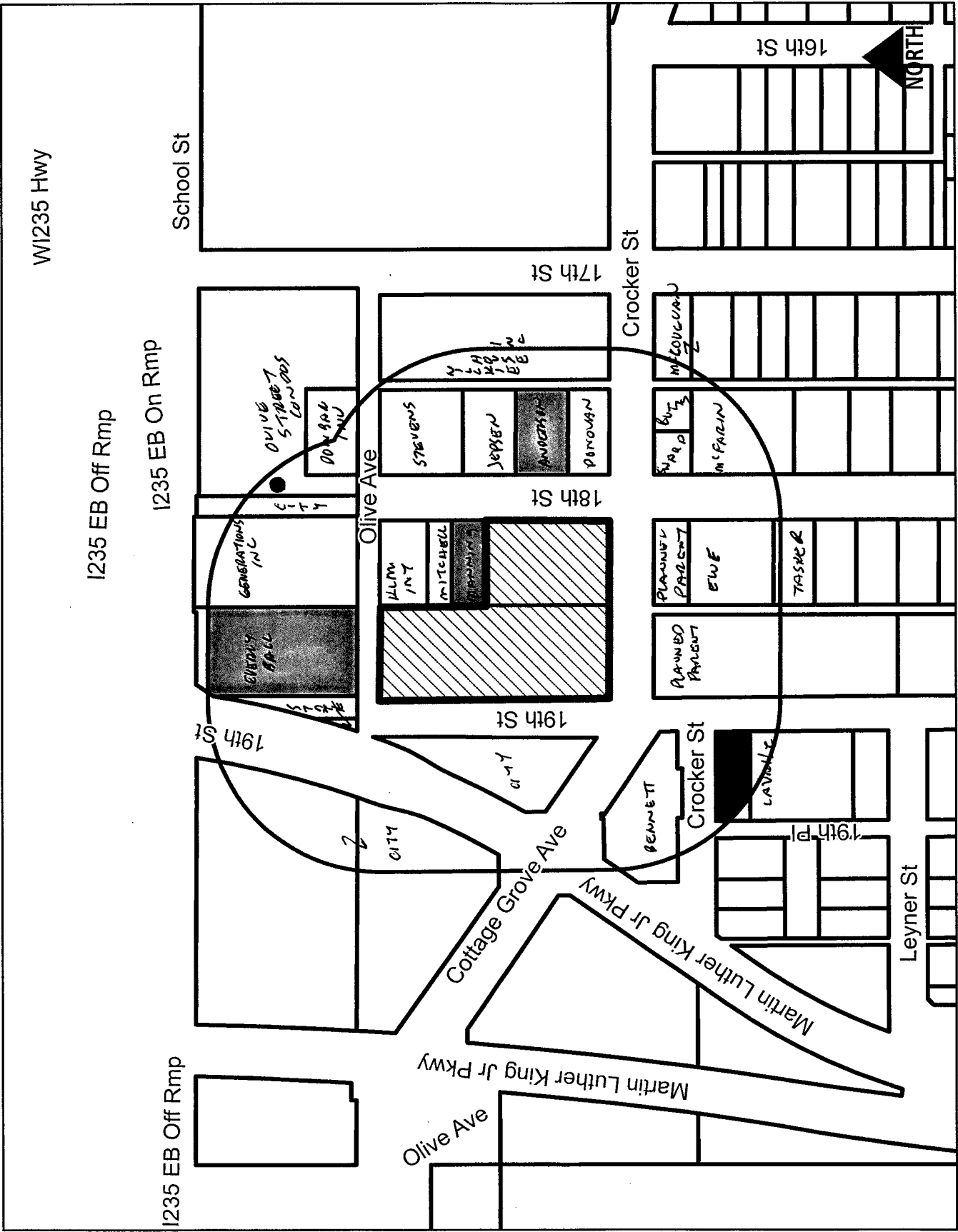
MOTION CARRIED

APPROVED

Mayor

City Clerk

82



WI235 Hwy

I235 EB Off Rmp

I235 EB On Rmp

I235 EB Off Rmp

School St

19th St

CITY

Olive Ave

19th St

18th St

17th St

Cottage Grove Ave

BENNETT

Crocker St

PLANNED PARCELS

PLANNED PARCELS

M'COUGHLIN

19th Pl

16th St

Leyner St

NORTH

August 25, 2010

Date	_____
Agenda Item	28
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 August 19, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-1-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Joel Huston	X			
Ted Irvine	X			
Greg Jones	X			
Jim Martin		X		
Brian Millard	X			
William Page			X	
Mike Simonson	X			
Kent Sovern				X

APPROVAL of a finding that the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan existing future land use designation Mixed-Use and Density; and **approval** of the requested rezoning with Historic Preservation Commission's input to a Limited "NPC" District subject to owner agreeing to the prohibition of the following uses:

ZON2010-00128

1. Auction businesses.
2. Billiard parlors, pool halls, and game rooms.
3. Communication towers.
4. Delayed deposit services businesses.
5. Gas stations.
6. Off-premises advertising signs.
7. Pawn businesses.
8. Package goods stores for the sale of alcoholic beverages.
9. Plumbing and heating shops.
10. Taverns and nightclubs, including private clubs.

Written Responses

- 3 In Favor
- 2 In Opposition



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 RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan existing future land use designation Mixed-Use and Density.

Part B) Staff recommends approval of rezoning to a Limited "NPC" District subject to owner agreeing to the prohibition of the following uses:

1. Auction businesses.
2. Billiard parlors, pool halls, and game rooms.
3. Communication towers.
4. Delayed deposit services businesses.
5. Gas stations.
6. Off-premises advertising signs.
7. Pawn businesses.
8. Package goods stores for the sale of alcoholic beverages.
9. Plumbing and heating shops.
10. Taverns and nightclubs, including private clubs

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant purchased and moved the filling station building originally located at 203 East Grand Avenue in the East Village to their site. The applicant wishes to renovate the building for use as a teen center. The existing "R-3" District requires the building to be setback 30 feet which is further than is typical in the Sherman Hill area or what was typical of historic fueling stations.
2. **Size of Site:** 55,051 square feet or 1.264 acres.
3. **Existing Zoning (site):** "R-3" Multiple Family Residential District, "R-HD" Residential Historic District, and "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Parking lot for the Cathedral building.
5. **Adjacent Land Use and Zoning:**
 - North* – "C-O"; Use is a medical clinic.
 - South* - "NPC"; Uses include a coffee shop and a medical clinic.
 - East* – "R-HD"; Uses are single-family dwellings.
 - West* – "NPC"; Use is Martin Luther King, Jr. Parkway and Interstate 235 interchange.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the Martin Luther King, Jr. Parkway corridor in the northwest corner of the Sherman Hill Neighborhood. This area consists of a mix of single and multiple family dwellings with scattered small-scale commercial uses.

7. **Applicable Recognized Neighborhood(s):** Sherman Hill Association.
8. **Relevant Zoning History:** In 2005 the City Council approved the rezoning of the properties along the 1800 block of Crocker Street and the 1900 block of Cottage Grove to the “NPC” District as an implementation activity of the Sherman Hill Neighborhood Plan. This included the southern portion of the applicant’s site, which contains the church building.
9. **2020 Community Character Land Use Plan Designation:** Mixed-Use and Density Residential
6. **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, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council

II. ADDITIONAL APPLICABLE INFORMATION

1. **2020 Community Character Plan:** The subject property is identified as Mixed Use and Density Residential on the Future Land Use Map. The 2020 Community Character Plan identifies these areas as being “developed with a mix of densities and some limited retail and office.” This designation encourages a “mix of single family, duplex, small multi-family as well as developments over 17 units per net acre.”

The “NPC” District allows all of the uses permitted in the “C-1” District and “C-2” District except for the following:

Sec. 134-912. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the NPC neighborhood pedestrian commercial district:

- (1) *Any use permitted in the C-1 district except:*
 - a. *Lawn mower repair shops;*
 - b. *Drive-up telephone or telephone booths; and*
 - c. *Parking lots, except as permitted by section 134-915.*
- (2) *Any use permitted in the C-2 district except:*
 - a. *Automobile accessory stores;*
 - b. *Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales, including sales lots;*
 - c. *Commercial baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf courses, trampoline centers, and similar recreational uses and facilities;*
 - d. *Drive-in theaters;*

- e. *Lumberyards;*
- f. *Miniwarehouses;*
- g. *Monument sales yards unless all monuments are contained within a building or in the back yard of the business;*
- h. *Motels, motor hotels, and tourist courts;*
- i. *Parking garages;*
- j. *Sheetmetal shops;*
- k. *Sign painting shops;*
- l. *Mobile home parks;*
- m. *Used car lots;*
- n. *Garages for motor vehicle repair;*
- o. *Automobile washing establishments, unless bays are normally enclosed and an attendant is on duty during all hours of operation;*
- p. *Adult entertainment businesses; and*
- q. *Gas stations designed to permit more than six vehicles to be fueled at a time.*

Staff believes that given the proximity of the site to residential uses and its visibility as a gateway to the Sherman Hill Neighborhood and the downtown that the following uses should be prohibited as well.

1. *Auction businesses.*
 2. *Billiard parlors, pool halls, and game rooms.*
 3. *Communication towers.*
 4. *Delayed deposit services businesses.*
 5. *Gas stations.*
 6. *Off-premises advertising signs.*
 7. *Pawn businesses.*
 8. *Package goods stores for the sale of alcoholic beverages.*
 9. *Plumbing and heating shops.*
 10. *Taverns and nightclubs, including private clubs.*
2. **Site Development Requirements:** Any future development of the site must conform to the City's Site Plan requirements including storm water management, landscaping, and screening.
 3. **NPC Design Guidelines:** If the requested rezoning is approved, any future development of the site must conform to the "NPC" District Design Guidelines (Section 82-214 of the City Code) as reviewed and approved by the Plan and Zoning Commission.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Greg Jones asked how much setback would this historic gas station need.

Jason Van Essen noted that staff believes that less than 30 feet setback is appropriate at this site.

Will Page asked whether Sherman Hill Neighborhood Association has reviewed the applicant's request and if so, what was the result.

Jason Van Essen stated the applicant did have a neighborhood meeting; staff visited with the neighborhood president and forwarded some of the images and staff report. Staff did not receive any official communication in support or in opposition from the neighborhood association itself.

Will Page asked what the status of the Action Plan

Jason Van Essen stated the neighborhood association has been doing planning work. Staff has been to a few of their meetings and is working with them. What they have accomplished at this point has been goal setting for their association. Judy McClure's comments indicate they are thinking that both sides of 18th Street should be RHD.

Pastor Kenny Linhart 705 NE Canterbury Drive, Ankeny, IA stated the gas station will have a little bit of a setback so the pumps can go in. It will be used as a youth center where kids' ages 8 years to 13 years can come from 3:30 p.m. – 8:30 p.m. Monday through Friday and some Saturday events. There will be supervision during the open hours. It will also double as a place of worship for the youth. He asked the commission to grant his request to rezone the property.

Greg Jones asked if the applicant's intention is to make it look like a gas station even though they are not going to use it as a gas station.

Pastor Kenny Linhart stated yes. He also stated the gas station was set back farther in the East Village but in Sherman Hill the gas station was set closer up. So there is an appropriateness for the location and gas station as well.

Greg Jones stated his concern is the conceptual drawing makes the gas station look like it is right upon the right-of-way.

Pastor Kenny Linhart stated the conceptual drawing was for the 18th & Crocker location, but that now the building would be setback about 15 feet.

Dann Flaherty asked if the pumps will be functional.

Pastor Kenny Linhart stated no, they are not going to be real.

Brian Millard asked has the applicant started raising funds.

Pastor Kenny Linhart stated they have.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in opposition of the applicant's request:

Carlton Salmons 1511 Center Street stated that he congratulates the Pastor for his foresight and interest in preserving and restoring Kingsway Cathedral. His concern is the applicant did not approach the City to ask if his request would be permitted under current zoning. Had the applicant ask the neighborhood before starting this project he would know that it is wrong to put this gas station in the neighborhood where it does not conform to the character. If the Commission permits what is proposed they will create a non conforming use and if it is allowed they will have created a spot zoning for the benefit of somebody who should have known better.

Robert Lower 846 19th Street stated his concern is a gas station is not homogeneous to the neighborhood and the applicant's request could cause a problem because it will look like an active gas station.

Lyn Loheed 822 16th Street stated she is not necessarily opposed to the applicant's request but she is uncomfortable because it is moving a historic structure just outside of the historic district where it will no longer be under the purview of the historic district. It needs to be setback enough so it will actually look like a building but not so much setback that it will look like somebody could actually drive up and get gas. She would like controls in place so they will not be back addressing this again when they decide it needs to be something else. It does impact the neighborhood and the quality of life.

Rebuttal

Pastor Kenny Linhart stated that he met with the Sherman Hill Neighborhood Association several times and a public meeting two nights ago for anybody who had concerns and the only concern that was addressed was the 18th Street property and we made that adjustment. Regarding the zoning we wish it was in the historic district and there are some people working on expanding the historic district. The belief is this project is appropriate and will accentuate that corner.

Jacqueline Easley asked what about people driving up thinking it is a real gas station.

Pastor Kenny Linhart stated they have thought about it but do not believe it will actually occur.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Mike Simonson asked why this property needs rezoning. Isn't it considered a church?

Jason Van Essen stated that is not the issue. It is all about the setbacks and the bulk regulations of the existing "R-3" and "R-HD" zoning districts.

Brian Millard stated that the neighborhood association has not come forward with a complaint or issue about it. This area is a transition and will look nice in that triangle property to the west. The applicant is working closely with the neighborhood and the neighbors that have concerns. They can solve any issues that people have brought up.

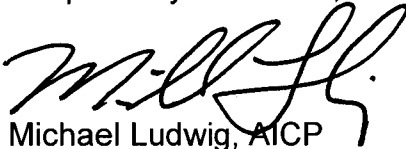
COMMISSION ACTION

Greg Jones moved staff recommendation to find Part A) the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan existing future land use designation Mixed-Use and Density; and Part B) approval of rezoning with Historic Preservation Commission's input to a Limited "NPC" District subject to owner agreeing to the prohibition of the following uses:

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8. Package goods stores for the sale of alcoholic beverages.
9. Plumbing and heating shops.
10. Taverns and nightclubs, including private club.

Motion passed 10-1-1 (Jim Martin voted in opposition and Will Page abstained due to conflict)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

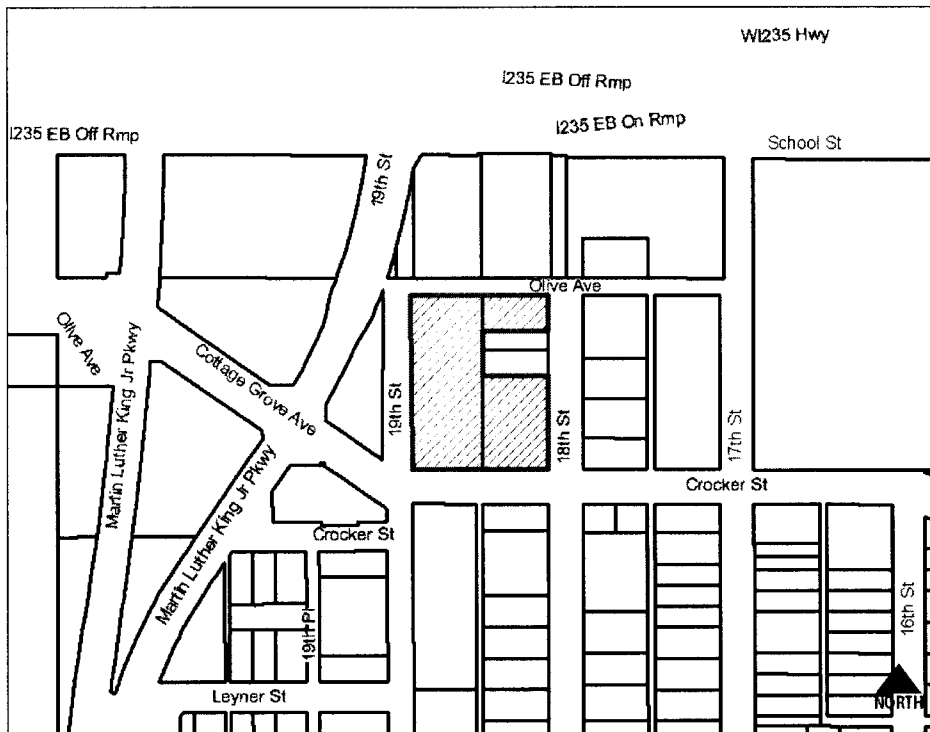
Attachment

28

Request from KLM International (contract buyer), represented by Kenny Linhart (officer), to rezone property at 901 19 th Street and 930 18 th Street. The subject property title holder is HES, Inc.			File # ZON2010-00128	
Description of Action	Rezone property from "R-3" Multiple-Family Residential District and "R-HD" Residential Historic District to "NPC" Neighborhood Pedestrian Commercial District, to allow the property to be developed in accordance with NPC design guidelines allowing placement of a historic gas station building for use as a teen center operated as part of KLM Ministries.			
2020 Community Character Plan	Mixed Use and Density Residential			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"R-3" Multiple-Family Residential District and "R-HD" Residential Historic District			
Proposed Zoning District	"NPC" Neighborhood Pedestrian Commercial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	2		
Outside Area		1		
Plan and Zoning Commission Action	Approval	10-1-1	Required 6/7 Vote of the City Council	Yes
	Denial			No

KLM International - 901 19th Street & 930 18th Street

ZON2010-00128



Item 2010 00128 Date 8-11-10

28

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

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT Print Name Exerty Ball CMHS

AUG 16 2010 Signature [Signature] CFO

DEPARTMENT Address 945 19th St. Dsm IA 50314

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

Item 2010 00128 Date 8/13/10

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Kirsten Anderson

AUG 17 2010 Signature Kirsten Anderson

DEPARTMENT Address 911 18 St.

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

The church is a great addition to the neighborhood & this project will also bring great things to the area. KLM has been a wonderful, proactive neighbor.

Item 2010 00128 Date 8-12-10

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

RECEIVED
COMMUNITY DEVELOPMENT
AUG 13 2010
DEPARTMENT

Print Name Sue Manning

Signature Sue Manning

Address 920 18th ST DSM
GA

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

Item 2010 00128 Date 8-14-2010

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

RECEIVED
COMMUNITY DEVELOPMENT
AUG 17 2010
DEPARTMENT

Print Name Robert D. Lower

Signature Robert D. Lower

Address 846 19th St.

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

space too small to explain

I wish to be heard at the
meeting on Aug 19th

Item 2010-00128 Date 8/16/2010

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
AUG 16 2010
DEPARTMENT

Print Name ROBERT GAINER

Signature TG

Address 129 27th CT., W. DSM, IA 50265

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

Item ZON2010-00128 Date 8/19/2010

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

(Circle One)

* NOT WITHIN 250'
NOTICE AREA

Print Name JUDY McCLURE

Signature Judy McClure

Address 657 - 19th ST.

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

Although it is a minor area (1/2
alley width behind 920-94-18th ST
the rezoning of any R-HD does not
match the intention of the draft Action
Plan - we will want to see all R-HD on 18th