

Date..... September 12, 2011

WHEREAS, on August 29, 2011, by Roll Call No. 11-1446, the City Council duly resolved to consider a proposal from Neighborhood Development Corporation to rezone certain property located in the vicinity of 1938 Southeast 6<sup>th</sup> Street in Des Moines from the C-1A Neighborhood Commercial Reuse District classification to a Limited NPC Neighborhood Pedestrian Commercial District classification, and that such proposal be set down for hearing on September 12, 2011, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on September 1, 2011, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the property located in the vicinity of 1938 Southeast 6<sup>th</sup> Street, more fully described as follows (the "Property"):

Lot 3, South of Hillside Avenue, Sevastopol, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the C-1A Neighborhood Commercial Reuse District classification to a Limited NPC Neighborhood Pedestrian 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 the Property and is binding upon the owners, and their successors, heirs and assigns:

1. Prohibition of the following uses:
  - a) billiard parlor/game room
  - b) communication tower/antenna (unless as an extension of 20 feet or less from the structure),
  - c) financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity,
  - d) gas stations/convenience stores,
  - e) off-premises advertising signs,
  - f) package goods stores for the sale of alcoholic beverages, and
  - g) taverns and nightclubs,
  - h) tattoo parlor
  
2. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

WHEREAS, in accordance with the notice those interested in the 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.

Date..... September 12, 2011

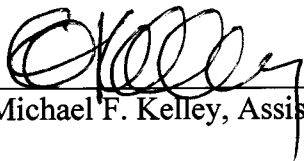
-2-

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 overruled and the hearing is closed.
2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified below.
3. The proposed rezoning of the Property from the C-1A Neighborhood Commercial Reuse District classification to the Limited NPC Neighborhood Pedestrian Commercial District classification is hereby APPROVED.

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

FORM APPROVED:

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

| COUNCIL ACTION | YEAS | NAYS | PASS     | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE         |      |      |          |        |
| COLEMAN        |      |      |          |        |
| GRIESS         |      |      |          |        |
| HENSLEY        |      |      |          |        |
| MAHAFFEY       |      |      |          |        |
| MEYER          |      |      |          |        |
| MOORE          |      |      |          |        |
| TOTAL          |      |      |          |        |
| MOTION CARRIED |      |      | APPROVED |        |

**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.

\_\_\_\_\_ Mayor

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

Date September 12, 2011

Agenda Item 41

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

August 24, 2011

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 18, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0-1 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|--------------------|-----|------|------|--------|
| JoAnne Corigliano  | X   |      |      |        |
| Shirley Daniels    | X   |      |      |        |
| Jacqueline Easley  | X   |      |      |        |
| Tim Fitzgerald     | X   |      |      |        |
| Dann Flaherty      | X   |      |      |        |
| John "Jack" Hilmes | X   |      |      |        |
| Joel Huston        |     |      | X    |        |
| Ted Irvine         | X   |      |      |        |
| Greg Jones         | X   |      |      |        |
| William Page       | X   |      |      |        |
| Christine Pardee   | X   |      |      |        |
| Mike Simonson      |     |      |      | X      |
| Kent Sovern        | X   |      |      |        |
| CJ Stephens        | X   |      |      |        |

**APPROVAL** of a request from Neighborhood Development Corporation (owner) represented by Heidi Wessels (officer), Part A) to find the proposed rezoning in conformance with the existing Des Moines' 2020 Community Character Plan Commercial: Pedestrian-Oriented Neighborhood Node designation; and Part B) to rezone property located at 1938 Southeast 6th Street from "C-1A" Neighborhood Commercial Reuse District to "NPC" Neighborhood Pedestrian Commercial District, to allow mixed use pedestrian commercial redevelopment subject to the following conditions:

ZON2011-00113

1. Prohibition of the following uses:

- a) billiard parlor/game room,
- b) communication tower/antenna (unless as an extension of 20 feet or less from the structure),
- c) financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity,
- d) gas stations/convenience stores,
- e) off-premises advertising signs,



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

- f) package goods stores for the sale of alcoholic beverages, and
  - g) taverns and nightclubs
  - h) tattoo parlor
2. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

Written Responses

2 In Favor

4 In Opposition

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

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan Commercial: Pedestrian-Oriented Neighborhood Node designation.

Part B) Staff recommends approval of the request subject to the following conditions:

1. Prohibition of the following uses:
  - a) billiard parlor/game room,
  - b) communication tower/antenna (unless as an extension of 20 feet or less from the structure),
  - c) financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity,
  - d) gas stations/convenience stores,
  - e) off-premises advertising signs,
  - f) package goods stores for the sale of alcoholic beverages, and
  - g) taverns and nightclubs.
2. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to rezone the subject property to allow development of a mixed-use building with 5,240 square feet of ground floor commercial space, 8 second floor dwelling units and 3 two-story dwelling units.

The applicant's original concept consisted of 6,240 square feet of commercial space, 10 second floor dwelling units and 3 two-story dwelling units. The applicant reduced the size of the building to address neighborhood concerns regarding parking and visibility at the east end of the building. A smaller building footprint allows the building to be set back further from the SE 6<sup>th</sup> Street intersections with Hillside Avenue and East Hartford Avenue.

Any development of the site will require approval of a site plan and building elevations by the Plan and Zoning Commission in accordance with the "NPC" Design Guidelines if the property is rezoned to the "NPC" District.

2. **Size of Site:** 24,474 square feet (0.56 acre).
3. **Existing Zoning (site):** "C-1A" Neighborhood Commercial Reuse District.
4. **Existing Land Use (site):** The site contains a vacant commercial building that has been used for vehicle repair.
5. **Adjacent Land Use and Zoning:**
  - North* – "R-3" & "C-1"; Uses are two 40-unit multiple-family buildings for seniors and a tavern.
  - South* – "C-1" & "R1-60"; Uses consist of a mix of commercial and single-family residential uses.
  - East* – "R1-60"; Use is the City of Des Moines' Fire Station #6.
  - West* – "R1-60"; Uses are single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located within the neighborhood-commercial node located at the intersection of SE 6<sup>th</sup> Street and East Hartford Avenue. The surrounding area consists primarily of single-family dwellings.
7. **Applicable Recognized Neighborhood(s):** McKinley School/Columbus Park Neighborhood Association.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Pedestrian-Oriented Neighborhood Node.
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. **2020 Community Character Plan:** The subject property is located within an area designated as Commercial: Pedestrian-Oriented Neighborhood Node by the Des Moines' 2020 Community Character Plan. This designation is described as areas developed in a fashion that balances the needs of the pedestrian and the convenience of the motorist. These developments are compact and walkable, and connect to adjacent areas via public streets and sidewalks. Neighborhood Nodes are further

described as small-scale commercial areas that primarily serve the needs of the adjacent neighborhood with a cumulative building area total of 25,000 to 50,000 square feet.

- 2. NPC Design Guidelines:** The applicant has submitted a site sketch and building elevations to convey their design concept for the project. Should the property be rezoned to "NPC" District, a Site Plan and building elevations must be submitted for review and approval by the Plan and Zoning Commission under the following design guidelines applicable to development in the "NPC" District.
- A) Buildings should frame the street and maintain a minimal setback from the street.
  - B) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.
  - C) The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.
  - D) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.
  - E) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
  - F) Building frontage should occupy at least 50 percent of the primary street frontage.
  - G) Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:
    - a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).
    - b. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.
    - c. Parking should not use the front yard but should be concentrated along the side and in back of the building in the predominant pattern of character defining buildings.
    - d. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring nonduplication of parking. The shared parking must be within 300 feet of the business or dwelling.
    - e. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved site plan.
    - f. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.

- g. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.

H) The following bulk regulations should be observed:

- a. Minimum lot area:
  - i. Single-family detached dwelling, 5,000 square feet.
  - ii. Single-family semidetached dwelling, 3,000 square feet.
  - iii. Two-family dwelling, 6,000 square feet.
  - iv. Multiple dwelling, 10,000 square feet.
  - v. Mixed-use project, 10,000 square feet.
  - vi. Shelter for the homeless, 8,000 square feet.
  - vii. No minimum requirement for permitted nonresidential uses.
- b. Minimum lot area per dwelling unit:
  - i. Row and multiple dwellings, 2,000 square feet.
  - ii. Shelter for the homeless, 300 square feet of lot size for each resident.
- c. Front yard: minimum of zero feet.
- d. Side yards: minimum of zero feet.
- e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
- f. Height: minimum of 15 feet, maximum of 45 feet.
- g. Number of stories:
  - i. Residential uses, a maximum of four stories.
  - ii. All other permitted uses, a maximum of two stories.
- h. Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.

- 3. Site Plan Requirements:** Any future development of the site must conform to the City's site plan requirements, including those regarding storm water management, landscaping, and screening of adjoining residential properties. Site plans for property within the "NPC" District must be approved by the Plan and Zoning Commission.

Development of the site must be done in compliance with the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

- 4. Parking & Access:** The submitted site sketch shows a 21-stall parking lot at the west end of the property with a driveway to Hillside Avenue to the north and a driveway to East Hartford Avenue to the south. The sketch also identifies 11 on-street parking spaces along East Hartford Avenue that adjoin the property. The "NPC" District allows on-street parking spaces to be counted towards meeting the parking requirement if they adjoin the subject property. The "NPC" District parking standards would require a total of 20 parking spaces for the proposed development. The parking standards for the "NPC" District are 40% less than the requirement for the "C" Districts, which would require 33 off-street parking spaces.

The applicant's original site sketch included 19 off-street parking space and 13 on-street parking spaces. In response to neighbors' concerns regarding parking, the applicant reduced the size of the building and increased the number of off-street

parking spaces. The original proposal would have required 25 spaces to comply with the "NPC" District parking requirements.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

CJ Stephens asked if tattoo parlors should be added to the list of prohibited uses.

Jason Van Essen stated that it could be if the Commission wanted. The applicant also has proposed covenants that prohibit uses that are more extensive than the City's list. Jason asked the applicant if they have a problem with the additional prohibition of tattoo parlors. The applicant indicated no.

JoAnne Corigliano stated that she would also like to add adult entertainment added to the list of prohibited uses.

Jason Van Essen explained that adult entertainment is not a permitted use in "NPC" districts and that is why it was not included on the list.

Heidi Wessels, Executive Director of Neighborhood Development Corporation 210 Des Moines Street stated that they have held a total of five neighborhood meetings. One of the concerns other than parking and traffic was the proposed development was too large, so they took over a 1000 square feet out of the commercial and eliminated two apartments.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke regarding the applicant's request*

Jim Post 224 E. Livingston stated that he commends Heidi Wessels for the great job she has done to work with the neighbors and if the applicant's zoning request is granted he would like the additional use restrictions suggested by Plan & Zoning members.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page stated that the building design compliments the whole neighborhood.

## **COMMISSION ACTION:**

JoAnne Corigliano moved that the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan Commercial: Pedestrian-Oriented Neighborhood Node designation; and Part B) to approve the request to rezone the property from "C-1A" Neighborhood Commercial Reuse District to "NPC" Neighborhood Pedestrian Commercial District, to allow mixed use pedestrian commercial redevelopment subject to the following conditions:

1. Prohibition of the following uses:
  - a) billiard parlor/game room
  - b) communication tower/antenna (unless as an extension of 20 feet or less from the structure),

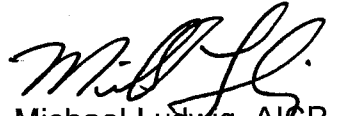


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- c) financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity,
  - d) gas stations/convenience stores,
  - e) off-premises advertising signs,
  - f) package goods stores for the sale of alcoholic beverages, and
  - g) taverns and nightclubs,
  - h) tattoo parlor
2. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

Motion passed 12-0-1 (Joel Huston abstained)

Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

MGL:clw

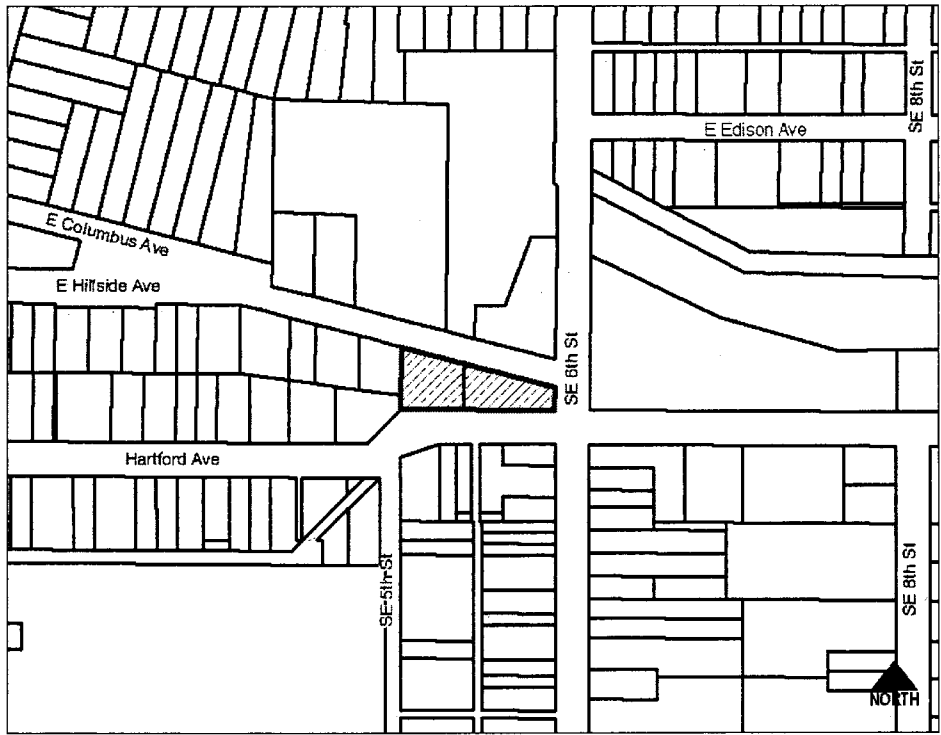
Attachment

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|  |   |               |  |              |
|--|---|---------------|--|--------------|
| Request from Neighborhood Development Corporation (owner) represented by Heidi Wessels (officer) to rezone property located at 1938 Southeast 6th Street |   | File #        |  |              |
|  |   | ZON2011-00113 |  |              |
| <b>Description of Action</b>   | Review and approval to rezone the property from "C-1A" Neighborhood Commercial Reuse District to "NPC" Neighborhood Pedestrian Commercial District, to allow mixed use pedestrian commercial redevelopment. |               |  |              |
| <b>2020 Community Character Plan</b>   | Commercial: Pedestrian-Oriented Neighborhood Node   |               |  |              |
| <b>Horizon 2035 Transportation Plan</b>  | SE 6 <sup>th</sup> Street from Maury Street to Indianola Avenue to widen from 2 lanes undivided to 3 lanes undivided  |               |  |              |
| <b>Current Zoning District</b>   | "C-1A" Neighborhood Commercial Reuse District   |               |  |              |
| <b>Proposed Zoning District</b>  | "NPC" Neighborhood Pedestrian Commercial District   |               |  |              |
| <b>Consent Card Responses</b>  | In Favor  | Not In Favor  | Undetermined                                 | % Opposition |
| Inside Area  | 2   | 4             |  |              |
| Outside Area   |   |               |  |              |
| <b>Plan and Zoning Commission Action</b>   | Approval  | 12-0-1        | <b>Required 6/7 Vote of the City Council</b> | Yes          |
|  | Denial  |               |  | No           |

Neighborhood Development Corporation - 1938 SE 6th Street

ZON2011-00113



Item 2011 00113

Date 6/28/2011

41

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

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name Hadi Wessels

Signature Hadi Wessels

JUN 30 2011

Address 1938 SE. 6th, DSA

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
SUBJECT: PAYABILITY

Item 2011 00113

Date 7-5-2011

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

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name HOME, Inc.  
Pam Carnichael

Signature Pam Carnichael

JUL 07 2011

Address 1111-9th Street, DSM, IA

**DEPARTMENT**

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

HOME, Inc. is in favor of improving  
this site to allow residents access  
to more services and business.

50314

Item 2011 00113 Date 7-3-2011

23  
41

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

COMMUNITY DEVELOPMENT

RECEIVED  
JUL 07 2011

Print Name CHARLES GONZALEZ

Signature Charles Gonzalez

DEPARTMENT

Address 449 E. Hillside Ave, DES MOINES IOWA 50315

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

I Think in Time The place will look like That place on S.E. 6th & SCOTT ST. Started not to bad, Now IT Looks Like A CAR JUNKYARD. Only difference This place sells USED Tires. I invite you To TAKE A Look AT The backyard NOW. Tires & ruins All over The back OF The Building

Item 2011 00113 Date 6-28-11

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

COMMUNITY DEVELOPMENT

RECEIVED  
JUL 01 2011

Print Name Eaton, Jennifer

Signature Jennifer Eaton

DEPARTMENT

Address 437 E Dunham Ave

1930 SE 6th 50315

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

There is no need for additional stores or restaurant besides you won't change zoning for the other businesses to add needed construction for business improvement. Firehouse would like to build a patio cover Zoning said NO

Item 2011 00113 Date 6-28-11

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

(Circle One)

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Patricia J Ragan

Signature

Patricia J Ragan

JUL 01 2011

Address

509 Hartford Ave

**DEPARTMENT**

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

because it will be right across the  
street with hardly any parking and  
traffic in area is bad enough.

Item 2011 00113 40 Date 6/29/11

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

(Circle One)

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

John A Brooks Sr

Signature

John A Brooks Sr

JUN 30 2011

Address

2001 SE 6<sup>th</sup> St

**DEPARTMENT**

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

I appose because I have a business and  
another property at 2004 SE 6<sup>th</sup> Street. because  
by the looks of the plan there won't be enough  
parking. And I already have problems with people  
parking in my lots when they are not suppose to  
John A Brooks Sr

