

Date..... November 7, 2011

WHEREAS, on October 24, 2011 by Roll Call No. 11-1783, the City Council of the City of Des Moines, Iowa, duly resolved to set a public hearing at 5:00 p.m., November 7, 2011 in Council Chambers on the request from Jose Villarreal to rezone property located at 2013 Clark Street from C-0 Commercial Residential District to R1-60 One-Family Low-Density Residential District classification to allow for financing of an existing single-family dwelling; and

WHEREAS, the subject property is more specifically described as follows ("Property"):

Lot 13, Cases Addition to North Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

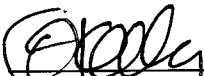
WHEREAS, due notice of the public hearing was published according to Iowa Code section 362.3 in the Des Moines Register on October 27, 2011; and

WHEREAS, pursuant to the notice, those persons both in favor of and opposed to the proposed rezoning have had the opportunity to be heard and have made their views known to the City Council.

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 are hereby overruled, the hearing is closed and the proposed rezoning of the Property from the C-0 Commercial Residential District to R1-60 One-Family Low-Density Residential District classification is hereby APPROVED.

MOVED by _____ to adopt and approve the rezoning.

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	
_____ 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

October 12, 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 October 6, 2011, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:



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

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 José Villarreal (owner) to rezone property located at 2013 Clark Street from "C-0" Commercial Residential District to "R1-60" One-Family Low-Density Residential District, to allow for financing of existing single-family dwelling excluding conditions recommended by staff.
ZON2011-00168

Written Responses

- 1 In Favor
- 0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the request to rezone the property to "R1-60" One-Family Low-Density Residential District subject to the applicant agreeing to the following condition:

1. Removal of half the existing 20-foot by 25-foot (500 square feet) paved parking area within the required front yard.
2. Any paved area removed shall be landscaped with sod.
3. Any portion of the drive approach not used shall have the curb restored.
4. There shall be a 9-foot by 17-foot (153 square feet) off-street parking space installed to the rear of the lot.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** A single-family residential dwelling has existed on the subject property since 1906. The existing dwelling is considered a legal, non-conforming structure use in the "C-0" Commercial-residential District. This designation is impacting the owner's ability to sell the subject property. The potential home buyer is having difficulties financing a home loan. Properties immediately to the west of the subject property are zoned R1-60.
2. **Size of Site:** 40 feet by 133 feet (5,320 square feet).
3. **Existing Zoning (site):** "C-0" Commercial-residential District.
4. **Existing Land Use (site):** Single-family dwelling.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-0", Uses are a single-family dwelling and undeveloped alley right-of-way.
 - South** – "C-0", Uses are the Employee and Family Resources and Clark Street right-of-way.
 - East** – "C-1", Use is undeveloped land associated with a service repair shop.
 - West** – "R1-60", Use is a single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The surrounding neighborhood area provides a transition between the commercial/residential uses to the north, south and east and the single-family neighborhood to the west.
7. **Applicable Recognized Neighborhood(s):** Drake Neighborhood Association.
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. Zoning: The applicant is seeking rezoning due to financing issues with the bank. The structure in its current location under the current "C-0" zoning would not be allowed to be reconstructed if the dwelling were to be destroyed by any means to an extent of 60% or more of its replacement cost at the time. Rezoning the property to "R1-60" would allow the replacement of the existing single-family dwelling within the limits of the existing foundation.

Sec. 134-1296. Permitted.

(b) Use of existing lots of record. In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot platted or of record as of July 16, 1965, regardless of its area or width; provided, however, that the following shall apply:

(5) Notwithstanding the setback requirements set forth above, a legal non-conforming single-family dwelling on such a lot within the R1 one-family residential districts, the R-2 one- and two-family residential districts and the R-3 and R-4 multiple-family residential districts can be used, maintained and reconstructed, provided however that if the dwelling is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed unless such reconstruction is commenced within six months of the destruction of the original dwelling and diligently pursued to completion, and the dwelling as reconstructed complies with the following design standards in lieu of the minimum single-family dwelling design requirements set forth in section 134-342(1)(a) and (b), and the restrictions on nonconforming lots and structures set forth in section 134-1352:

- (a) The dwelling shall remain within the original building footprint without an increase in the gross floor area;*
- (b) The dwelling shall have a minimum width facing the street of the smaller of 24 feet or the width of the dwelling prior to such destruction;*
- (c) The dwelling shall have a minimum depth perpendicular to the street of the smaller of 20 feet or the depth of the dwelling prior to such destruction.*
- (d) A minimum of 15 percent of the facade of the dwelling facing the street shall consist of windows, doors and other building openings;*
- (e) The dwelling shall have a door facing the street that appears to be a primary entrance;*
- (f) The main part of the dwelling shall have a minimum roof pitch of 3:12.*
- (g) The dwelling shall have a roof overhang around the entire perimeter; and,*
- (h) Any foundation skirting material shall have the appearance of masonry or poured concrete typical of site-built homes.*

2. **2020 Community Character Plan:** The Des Moines' 2020 Community Character Plan designates the subject area as Commercial: Pedestrian-Oriented; Commercial Corridor. Residential uses are also consistent with this designation.
3. **Parking:** The subject property does contain an existing 20-foot by 25-foot (500 square feet) paved parking area within the required front yard. The zoning ordinance states that front yard parking area should occupy no more than 25% of the front yard. The 500 square feet of paving area represents 50% of the 1,000 square feet (25 feet by 40 feet) front yard area. Furthermore, single-family dwellings are required one (1) off-street parking space located outside the required front yard. Staff recommends removal of one-half of the existing 20-foot by 25-foot (500 square feet) paved parking area within the required front yard and paving of a 9 foot by 17-foot (153 square feet) off-street parking space to the rear of the lot. The off-street parking space would be accessed by an existing alley located off of Martin Luther King Jr. Parkway.

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Greg Jones asked if there is a tree in the back where staff is suggesting a parking space.

Bert Drost stated that there is a tree on one side and a play set on the other side. The play set could be moved.

Will Page asked about the maintenance of the alley and who else uses the alley.

Bert Drost stated that the alley is gravel and there is one property that uses the alley.

CJ Stephens asked about the next door neighbor parking in the front and if there are others on the street parking in the front.

Mike Ludwig stated that the next door neighbor can drive along side of the house so their one required parking space is on the side of the house.

Erica Villarreal & Jose Villarreal 2013 Clark Street stated that they cannot use the back alley because it is not maintained, there is limited visibility when trying to get out to Martin Luther King Jr. Parkway southbound and there is no entrance from the front.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition of the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones moved to approve the request to rezone the property to "R1-60" One-Family Low-Density Residential District excluding conditions recommended by staff.

Motion passed 11-0.

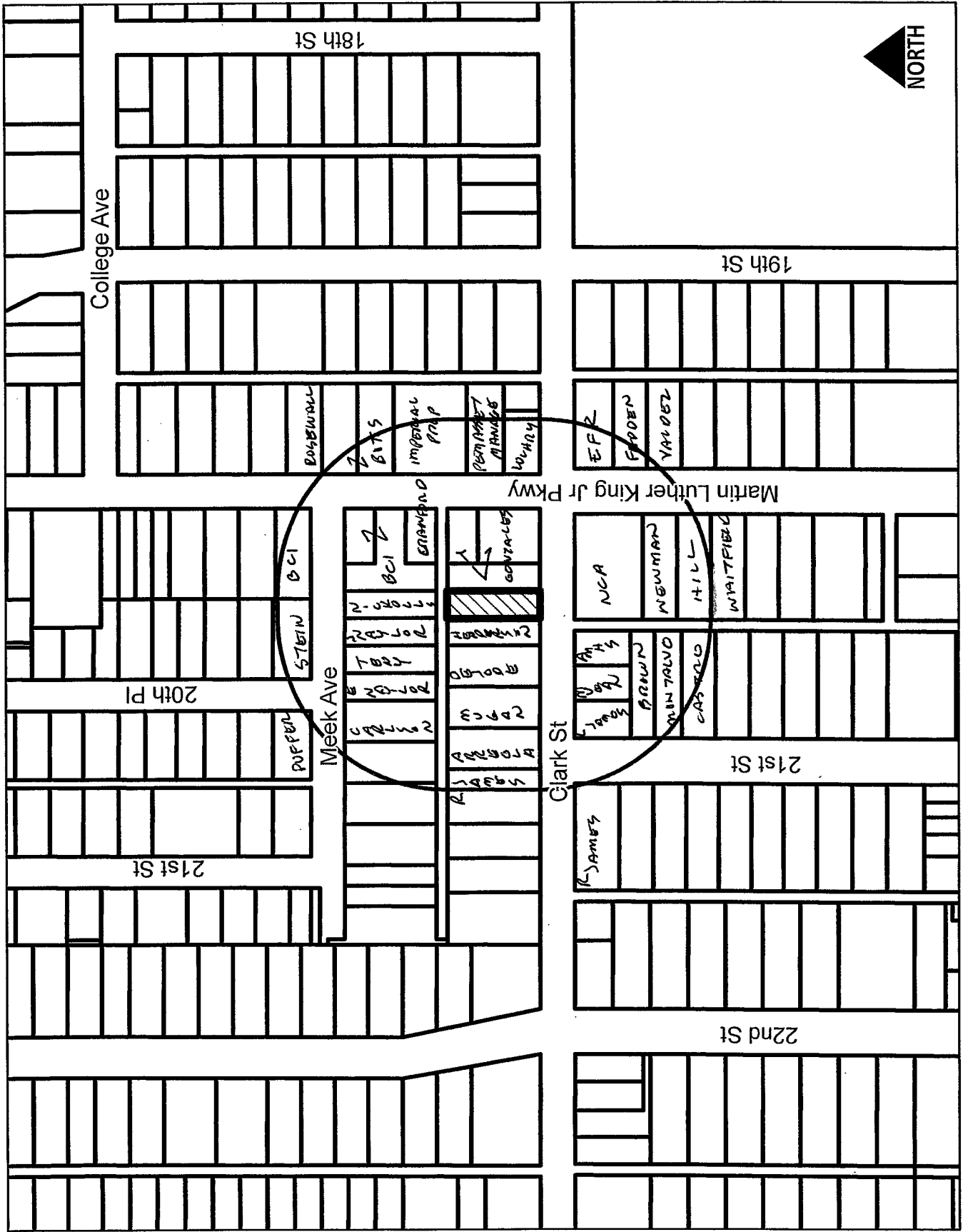
Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment



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Item **2011 00168**

Date 10/3/11

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

(Circle One)

DEPARTMENT

Print Name

Randy Whitfield

1102 10 OCT 2011

Signature

Randy Whitfield

Address

1432 MLK

COMMUNITY DEVELOPMENT

Reason for opposition to approving this request may be listed below:

RECEIVED

Five horizontal lines for providing reasons for opposition.