

Date February 27, 2012

WHEREAS, on February 13, 2012 by Roll Call No. 12-0189, it was duly resolved by the City Council that the application of JZJL Holdings, LLC d/b/a QCSA Direct to rezone certain property located in the vicinity of 1700 East Aurora Avenue, more fully described below, to revise the Limited M-2 Heavy Industrial District classification with conditions approved by Ordinance No. 14,504 that prohibits use of the property as a junk or salvage yard, to allow a towing and storage yard for motor vehicles and trailers including wrecked or damaged vehicles provided there is no salvaging, stacking or crushing of vehicles on the property, be set down for hearing on February 27, 2012, 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 February 16, 2012, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

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; 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:

Beginning at the Southwest corner of Lot 1, Ford Industrial Park, an Official Plat; thence, North 00° 31' 39" East along the West line of said Lot 1 a distance of 1026.64 feet to the Northwest corner of said Lot 1; thence, North 48° 00' 04" East along the Northwest line of said Lot 1 a distance of 246.97 feet to the most Northerly corner of said Lot 1; thence, Southeast along the Northeast line of said Lot 1, and along a 2561.87 foot radius curve, concave Northerly a distance of 249.14 feet, said curve have a chord bearing of South 62° 00' 28" East and a chord length of 249.04 feet; thence, South 66° 13' 53" East along the Northeasterly line of said Lot 1 a distance of 168.35 feet; thence, South 00° 28' 11" East a distance of 475.88 feet; thence, North 89° 42' 31" East a distance of 379.67 feet; thence, South 00° 24' 33" East a distance of 303.38 feet; thence, South 89° 38' 33" West a distance of 410.94 feet; thence, South 00° 17' 28" East a distance of 224.83 feet to the South line of said Lot 1; thence, South 89° 44' 47" West along the South line of said Lot 1 a distance of 542.92 feet to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

to revise the Limited M-2 Heavy Industrial District classification with conditions approved by Ordinance No. 14,504 that prohibits use of the property as a junk or salvage yard, to allow a towing and storage yard for motor vehicles and trailers including wrecked or damaged vehicles provided there is no salvaging, stacking or crushing of vehicles on the property, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

Date February 27, 2012

-2-

To revise the conditions approved by Ordinance No. 14,504 that prohibits use of the property as a junk or salvage yard, to allow a towing and storage yard for motor vehicles and trailers including wrecked or damaged vehicles provided there is no salvaging, stacking or crushing of vehicles on the property.


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 of the Property to a Limited M-2 District classification are hereby overruled, the hearing is closed and the proposed rezoning to a revised Limited M-2 District Classification is hereby APPROVED.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

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				

**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

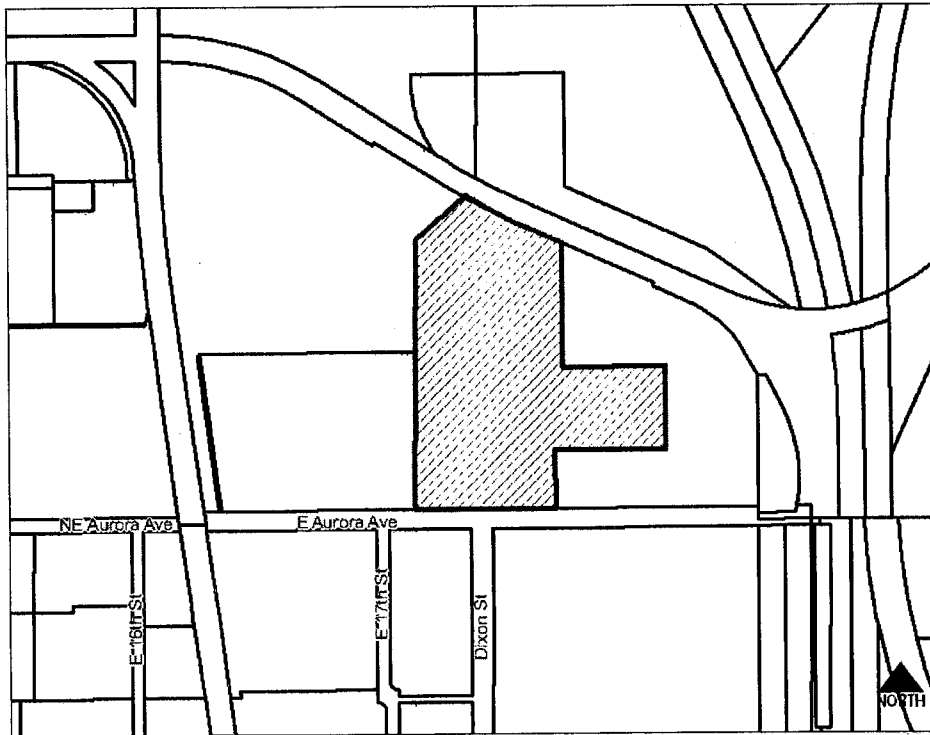
\_\_\_\_\_  
 Mayor

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

Request from JZJL Holdings, LLC d/b/a QCSA Direct (developer) represented by Joseph Zrostlik (officer) to rezone property located at 1700 East Aurora Avenue. The subject property is owned by the Nellis Corporation, Ellis I. Levitt Trust and Wells Fargo Bank, N.A. (trustee).				<b>File #</b> <b>ZON2011-00246</b>	
<b>Description of Action</b>	Review and approval to rezone the property to remove a condition of the Limited "M-2" Heavy Industrial District that prohibits use of the property as a junk or salvage yard.				
<b>2020 Community Character Plan</b>	General Industrial				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	Limited "M-2" Heavy Industrial District				
<b>Proposed Zoning District</b>	"M-2" Heavy Industrial District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	0	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

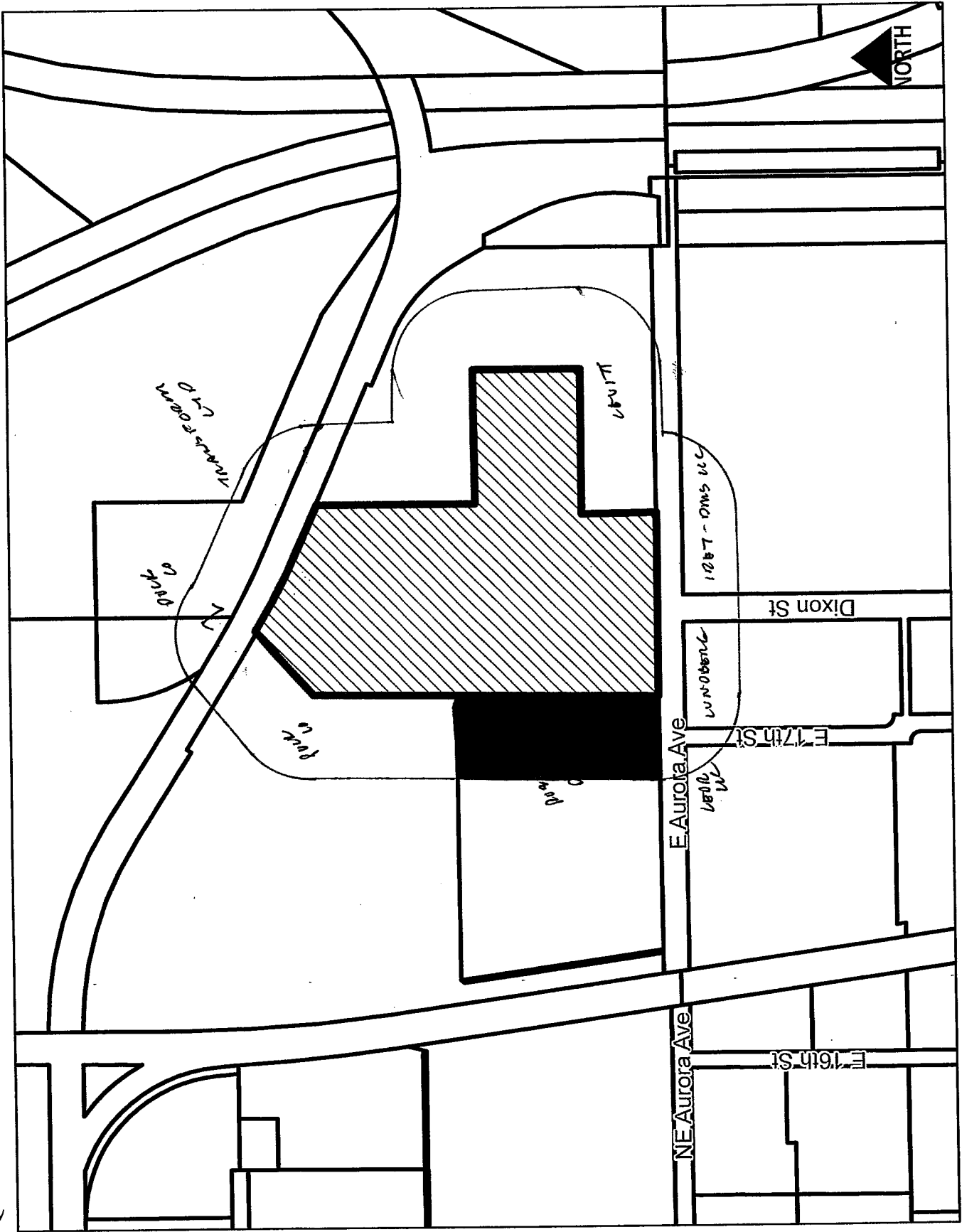
QCSA Direct - 1700 E Aurora Avenue

ZON2011-00246



ZON2011-00246

QCSA Direct - 1700 E Aurora Avenue



Date Feb. 27, 2012

Agenda Item 50

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

February 1, 2012

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 January 19, 2012, 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			
CJ Stephens	X			

**APPROVAL** of a request from JZJL Holdings, LLC d/b/a QCSA Direct (developer) represented by Joseph Zrostlik (officer) Part A) to find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan; and Part B) to approve the rezoning property located at 1700 East Aurora Avenue to remove a condition of the Limited "M-2" Heavy Industrial District that prohibits use of the property as a junk or salvage yard with conditions approved by Ordinance No. 14,504 to allow a towing and storage yard for motor vehicles and trailers including wrecked or damages vehicles provided there is no salvaging, stacking or crushing of vehicles on the property. The subject property is owned by the Nellis Corporation, Ellis I. Levitt Trust and Wells Fargo Bank, N.A. (trustee). (ZON2011-00246)

Written Responses

- 0 In Favor
- 1 In Opposition

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of rezoning the subject property to revise the Limited "M-2" Heavy Industrial District with conditions approved by Ordinance No. 14,504 to allow a towing and storage yard for motor vehicles and trailers including wrecked or damaged vehicles provided there is no salvaging, stacking or crushing of vehicles on the property.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant wishes to use the western portion of the subject property for a towing and storage yard for motor vehicles and trailers including wrecked. The application indicates that vehicles would generally be located on site for approximately 15 to 150 days and that they are routinely sold via internet auctions. The vehicles would be brought to and removed from the property intact. The proposed business would not include any on-site salvaging, stacking or crushing of vehicles.
2. **Size of Site:** The subject site measures 16.8 acres and is a part of a 28.1-acre parcel.
3. **Existing Zoning (site):** Limited "M-2" Heavy Industrial District.
4. **Existing Land Use (site):** The subject property is a large factory site that is partially vacant and partially used for storage.
5. **Adjacent Land Use and Zoning:**
  - North** – Heavy Industrial District (Polk Co. designation), Uses consist of a railroad line and the Hamilton Drainage Basin.
  - South** – "M-1", Uses consist of warehousing.
  - East** – Heavy Industrial District (Polk Co. designation), Uses consist of warehousing and a railroad line.
  - West** – "M-2", Use is a light manufacturing facility.
6. **General Neighborhood/Area Land Uses:** The subject property is located in an industrial and warehousing area in the northeast section of the City. Uses in this area primarily consist of manufacturing and warehousing. This area is bounded by the city limits to the north, Interstate 235 to the east, East Washington Avenue to the south and Dixon Street to the west.
7. **Applicable Recognized Neighborhood(s):** NA.

**8. Relevant Zoning History:** On June 3, 1991 the City Council approved Ordinance No. 11,669 prohibiting the following Conditional Uses:

- a. *Abattoirs and slaughter houses or stockyards;*
- b. *Cement, lime, gypsum or plaster of paris manufacture;*
- c. *Explosive storage;*
- d. *Garbage, offal or dead animal reduction or dumping;*
- e. *Junk yard or salvage yard;*
- f. *Sand or gravel pits; and*
- g. *Solid waste transfer stations.*

On October 10, 2005 the City Council approved Ordinance No. 14,504 allowing towing and storage yards for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property as a Conditional Use. The following is current list of prohibited uses from the ordinance.

- a. *Abattoirs and slaughter houses or stockyards.*
- b. *Cement, lime, gypsum, or plaster of Paris manufacture.*
- c. *Explosive storage.*
- d. *Garbage, offal or dead animal reduction or dumping.*
- e. *Junk yard or salvage yard, however this shall not prohibit the use of the Property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the Property.*
- f. *Sand or gravel pits.*
- g. *Solid waste transfer station.*

**9. 2020 Community Character Land Use Plan Designation:** General Industrial.

**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 Chapter 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. Drainage/Grading:** The submitted site sketch indicates reuse of existing paved parking and structures and the construction of a 20-foot by 40-foot modular office. Stormwater management requirements would be reviewed during the Conditional Use Permit and site plan review processes. Staff believes there is ample space on the site to handle any necessary stormwater management improvements.

**2. Landscaping & Buffering:** The City's Landscaping Standards for "M-2" Districts generally require the following:

1. 20% open space with a minimum of one overstory deciduous tree and one evergreen tree and one shrub for every 5,000 square feet of required open space.

2. Parking lots and display lots shall provide landscaping within the interior of the parking lot. All parking lots or display lots containing more than fifty stalls shall be required to landscape the interior of the parking lot with a minimum of one overstory tree and three shrubs for every forty spaces, at maturity shrubs shall be no taller than 36”.
3. Parking lots and display lots of any size shall be required to separate the paved lot from the property line and landscape this setback perimeter in conformance with Chapter 5, Section II of the Des Moines Landscape Standards.

Section 134-1123 of the Zoning Ordinance states that in the “M-2” District, the following conditions are required:

1. The best practical means known for the disposal of refuse matter or water-carried waste and the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.
2. All development within the M-2 heavy industrial district is also subject to the adopted landscape standards under the site plan regulations in chapter 82.

These performance standards and the above mentioned landscaping requirements would be reviewed during the Conditional Use Permit and site plan review processes.

3. **Access or Parking:** Access is provided to this site from East Aurora Avenue and Dixon Street. The subject site is near both the East 14<sup>th</sup> Street and East Euclid Avenue corridors. The proposed rezoning should have no impact on the street system. The submitted site sketch shows 14 parking spaces. Necessary parking will be evaluated during the Conditional Use Permit and site plan review processes. Staff believes there is ample space on the site to provide necessary parking.
4. **Applicable Conditional Use Criteria:** If the proposed rezoning is approved the applicant will be required to obtain a Conditional Use Permit from the Zoning Board of Adjustment before the proposed use can occupy the site. The Board is required by Section 134-1122(5) of the City Code to consider all of the following criteria when reviewing a Conditional Use Permit request for uses in the “M-2” District that are not permitted in the “M-1” District or does not comply with the limitations of such use in the “M-1” District.
  - a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
  - b. Such use shall not impair an adequate supply of light and air to surrounding property;
  - c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
  - d. Such use shall not diminish or impair established property values in adjoining or surrounding property;
  - e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;



- f. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
- h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
- i. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
- j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.
- k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

### **III. STAFF RECOMMENDATION TO THE PLAN AND ZONING COMMISSION AND BASIS FOR APPROVAL**

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of rezoning the subject property to revise the Limited "M-2" Heavy Industrial District with conditions approved by Ordinance No. 14,504 to allow a towing and storage yard for motor vehicles and trailers including wrecked or damages vehicles provided there is no salvaging, stacking or crushing of vehicles on the property.

#### **SUMMARY OF DISCUSSION**

*There was no discussion.*

#### **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 staff recommendation to approve Part A) to find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan; and Part

B) to approve the rezoning of subject property to revise the Limited "M-2" Heavy Industrial District with conditions approved by Ordinance No. 14,504 to allow a towing and storage yard for motor vehicles and trailers including wrecked or damaged vehicles provided there is no salvaging, stacking or crushing of vehicles on the property.

Motion passed 11-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M.L.", is written over the typed name.

Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Item 2011 00246

Date 1/13/2012

I (am) (am not) in favor of the request. - SEE ATTACHED

(Circle One)

Print Name Alan M. Roberts, for Roberts & Rybold Inc.

Signature [Signature]

Address 1660 E. Aurora Ave. Des Moines IA

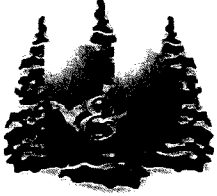
Community Development Department  
JAN 19 2012  
RECEIVED



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

Please see enclosed letter regarding  
our concerns.

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



**ROBERTS & DYBDAHL INC.**

January 13, 2012

Attn: Steve Klinkefus  
Des Moines Community Development  
602 Robert D Ray Drive  
Des Moines, IA 50309-9603

RE: Item No. 2011 00246 – Request from JZJL Holdings LLC dba QCSA Direct to rezone property at 1700 East Aurora Avenue for use as a junk or salvage yard.

Dear Mr. Klinkefus:

Roberts & Dybdahl Inc. is the adjacent property owner to the west of the subject property. It is our understanding, based upon previous correspondence received from your office, that the request to change the zoning on the property is so it may be used as a junk or salvage yard for the storing of damaged vehicles for periods of up to six months. We also understand that JZJL Holdings has stated that they will not be stacking, crushing or salvaging vehicles on the property. We have the following concerns about rezoning the subject property as a junk or salvage yard:

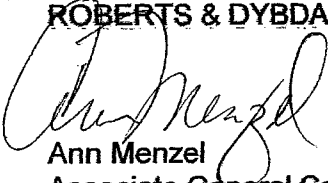
- 1) I have attached photographs of the subject property that show a pick-up truck stored on the property is without tires and showing loose tires randomly lying around the property. This raises concerns that the property owners may “salvage” vehicles on the property. Will changing the subject property zoning to allow its use as a junk or salvage yard permit the users of the property, either now or in the future, to stack, crush or salvage (as in tear down or part out vehicles), or will restrictions be placed on the re-zoned property preventing the stacking, crushing or salvaging of vehicles?
- 2) This property has a history of pollution contamination. Water from this property has flowed onto our property in the past. Even if the property owners are only storing damaged vehicles on the property and not stacking, crushing or salvaging, we believe that there is a real possibility that contaminates and fluids from the vehicles or other operations may affect our property, other surrounding property or the ground water. Will safeguards to prevent possible pollution on the property and its surroundings be required in order to allow this zoning change to go forward on the property?
- 3) The storing of damaged vehicles on the property is not an aesthetically pleasing activity (see attached photographs). As a lumber distribution center, Roberts & Dybdahl Inc. was required to plant trees to partially screen its property. Will plants,

trees or other screening be required should this property be re-zoned for use as a junk or salvage yard?

Subject to the resolution of the above concerns, Roberts & Dybdahl Inc. has no objection to the change in the zoning for the subject property. Please feel free to contact me with any questions you may have regarding our position on this proposed change.

Sincerely,

**ROBERTS & DYBDAHL INC.**



Ann Menzel  
Associate General Counsel

Enc.