

.....  
Date..... May 21, 2012

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 19, 2012, its members voted 9-0 in support of a motion to recommend **DENIAL** of a request from Jose Zambrano (purchaser) and Jose Gonzales (owner) to rezone property located at 2001 Clark Street, 2009 Clark Street and 1510 M.L. King Jr. Parkway from a Limited C-1 Neighborhood Retail Commercial District to C-2 General Retail and Highway-Oriented Commercial District, to allow reuse of the premises for a general motor vehicle repair shop use; and

WHEREAS, on May 7, 2012 by Roll Call No. 0695, the City Council set a public hearing on the proposed rezoning for May 21, 2012 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

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

Lots 14, 15, and 16, 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, notice of the public hearing was published in the Des Moines Register according to law on May 10, 2012, setting forth the time and place for hearing on the proposed rezoning; and

WHEREAS, in accordance with the notice those interested in the proposed rezoning, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to City Council.

Date May 21, 2012

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

Alternative A

\_\_\_\_\_ Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from a Limited C-1 Neighborhood Retail Commercial District to C-2 General Retail and Highway-Oriented Commercial District are accepted, the hearing is closed and the proposed rezoning is hereby DENIED.

Moved by \_\_\_\_\_ to adopt and to DENY the proposed rezoning.

Alternative B

\_\_\_\_\_ Moved by \_\_\_\_\_ to continue the public hearing until the \_\_\_\_\_ Council meeting at 5:00 p.m. and to direct the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to the conditions acceptable to the City and the applicant.

Moved by \_\_\_\_\_ to adopt and to continue the public hearing to \_\_\_\_\_ at 5:00 p.m.

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

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Request from Jose Zambrano (purchaser) to rezone property located at 2001 Clark Street, 2009 Clark Street and 1510 M. L. King Jr. Parkway. The subject property is owned by Jose Gonzales.				<b>File #</b> ZON2012-00042	
<b>Description of Action</b>	Review and approval to rezone the property from a Limited "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow reuse of the premises for a general motor vehicle repair shop use.				
<b>2020 Community Character Plan</b>	Commercial: Pedestrian-Oriented Commercial Corridor				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	Limited "C-1" Neighborhood Retail Commercial District				
<b>Proposed Zoning District</b>	C-2" General Retail and Highway-Oriented Commercial District				
<b>Consent Card Responses</b>	<b>In Favor</b>	<b>Not In Favor</b>	<b>Undetermined</b>	<b>% Opposition</b>	
Inside Area	1				
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	9-0		No	

Jose Zambrano - 2001 & 2009 Clark Street, 1510 MLK Parkway ZON2012-00042





Date May 21, 2012

Agenda Item 57

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

April 25, 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 April 19, 2012, the following action was taken regarding a request from Jose Zambrano (purchaser) to rezone property located at 2001 Clark Street, 2009 Clark Street and 1510 M. L. King Jr. Parkway represented by Jose Gonzales (owner):

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 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			
Ted Irvine	X			
Greg Jones	X			
William Page				X
Christine Pardee	X			
Mike Simonson				X
CJ Stephens				X
Vicki Stogdil	X			

**APPROVAL** of motion to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan

By separate motion Commissioners recommended 9-0 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			
Ted Irvine	X			
Greg Jones	X			
William Page				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

Commission Action:	Yes	Nays	Pass	Absent
Christine Pardee				X
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdil	X			

**DENIAL** of request to amend the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Commercial: Pedestrian-Oriented, Commercial Corridor to Commercial: Auto-Oriented, Small-Scale Strip Development; and denial of the requested rezoning (21-2012-4.02 & ZON2012-00042)

Written Responses

- 1 In Favor
- 0 In Opposition

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

Part A) Staff recommends that the Commission find the requested rezoning not in **conformance with the Des Moines' 2020 Community Character Plan.**

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Commercial: Pedestrian-Oriented, Commercial Corridor to Commercial: Auto-Oriented, Small-Scale Strip Development.

Part C) Staff recommends denial of the requested rezoning.

*Staff further suggests that the applicant seek a Use Variance should the requested rezoning be denied by the City Council. The Board of Adjustment cannot consider a Use Variance request until the applicant has been denied the required zoning by the City Council. A Use Variance would give the City greater control than Limited "C-2" zoning.*

**STAFF REPORT**

**I. GENERAL INFORMATION**

- 1. Purpose of Request:** The subject property historically was used as a printing shop. In February 2005, a tortilla factory went into the existing one-story commercial building, which was a permitted use in the "C-1" District. Currently the site, under city standards, has been vacant since 2006. The applicant wishes to use the properties as a general motor vehicle repair shop which requires the "C-2" District zoning designation.
- 2. Size of Sites:** 120 feet by 133 feet (15,960 square feet).
- 3. Existing Zoning (site):** Limited "C-1" Neighborhood Retail Commercial District.
- 4. Existing Land Use (site):** The properties currently contain a one-story commercial building, a storage shed, and illegal storage of vehicles.

**5. Adjacent Land Use and Zoning:**

**North** – “C-0”, Uses are a one-story commercial building, Friendship Baptist Center, and undeveloped alley right-of-way.

**South** – “C-0”, Uses are the Employee and Family Resources and Clark Street right-of-way.

**East** - “C-0”, Uses are undeveloped land and Martin Luther King Jr. Parkway right-of-way.

**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:** On May 9, 2005, the City Council approved Ordinance 14,445 to rezone certain property located in the vicinity of 1510 Martin Luther King Jr. Parkway from "C-O" Commercial Residential District to a Limited "C-1" Neighborhood Retail Commercial District, with the following conditions:
- A. Any commercial development of the Property shall comply with the applicable Site Plan Regulations, including the landscaping and buffering requirements.
  - B. The unused driveway approaches shall be removed and the curb shall be restored within 90 days of the commencement of any new use of the Property.
  - C. Any development of the Property shall be performed in compliance with all necessary construction permits, and a Certificate of Occupancy shall be obtained prior to occupancy of any building upon the Property for any new use.
- 9. 2020 Community Character Land Use Plan Designation:** Commercial: Pedestrian-Oriented; Commercial Corridor.
- 10. Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations 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 make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. **Landscaping & Buffering:** The “C-2” landscaping standards generally require a 7-foot wide perimeter landscape strip along street frontages as well as a 10-foot wide buffer yard adjoining properties that are zoned or used for residential purposes with a 6-foot tall opaque screen fencing. These areas also require the planting of overstory trees, evergreens and shrubs. If the rezoning is approved or a Use Variance is granted, staff will work with the applicant to ensure that landscaping and buffering are provided to the fullest extent possible.
- 2. **Parking:** The proposed use would require a minimum of 3 off-street parking spaces based on the existing 1,750 square foot building (one per 600 square feet of gross floor area). Staff believes that there is enough space on the property for the parking requirement to be met.
- 3. **Traffic/Street System:** Martin Luther King Jr. Parkway is a major arterial street that divides the Drake Neighborhood and King Irving Neighborhood. Staff believes that the proposed rezoning would have minimal impact on traffic in the area.
- 4. **2020 Community Character Plan:** The requested rezoning to “C-2” is not in conformance with the *Commercial: Pedestrian Oriented; Commercial Corridor* future land use designation. An amendment to *Commercial Auto: Oriented; Small-Scale Strip Development* was requested by the applicant. This amendment is necessary for the requested rezoning to be found in conformance with the 2020 Community Character Plan.

Staff believes that a highway commercial designation is not appropriate given the limited size of the site and its proximity to the residential neighborhood located to the west. Although, auto-oriented commercial land use designations are found on arterial streets, the classification use would not be within the essential character of the surrounding area. The surrounding area consists of low-density residential, low-medium density residential, and commercial: pedestrian-oriented; commercial corridor uses. Therefore, staff does not recommend approval of the requested amendment to the Des Moines 2020 Community Character Plan.

- 5. **Enforcement Comments:** There is a history of zoning violations since 2002 on the subject properties. This includes the storage of unlicensed and inoperable vehicles and the vehicle impound by the Neighborhood Inspection Division. Staff would recommend that all unlicensed and inoperable vehicles be removed and stored within an enclosed structure.

**SUMMARY OF DISCUSSION**

Erik Lundy presented the staff report and recommendation.

Tim Fitzgerald asked if the applicant understood the recourse he can take if the City Council denies the rezoning.



Erik Lundy explained that he believed the applicant does, but the Commission can ask them.

CJ Stephens asked if there was any input from the neighborhood association.

Erik Lundy stated we have not received any input from the neighborhood association.

John "Jack" Hilmes asked if the underground tanks are empty.

Erik Lundy stated that one of the tanks might be removed soon and he believes one is being salvaged if they are successful in obtaining approval for the use of this property.

Jose Gonzalez 1314 4<sup>th</sup> Street is representing the applicant. He stated that Mr. Zambrano is willing to comply with anything that is asked of him.

Tim Fitzgerald asked does the applicant plan on purchasing the building or leasing and does he understand what needs to happen if the City Council decides to deny his request.

Jose Gonzalez stated that the applicant is purchasing the property if everything works out and he does understand. The applicant also has a plan of what he would like to do for the property and understands he will have to follow any conditions the Commission set forth.

Mike Ludwig stated that the Plan and Zoning Commission makes recommendation. The City Council makes the final decision.

Jose Gonzales asked when the applicant will know of the Commission's decision.

Greg Jones explained that the applicant would know tonight what the Commission recommends and then their recommendation will go to Council.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

### **COMMISSION ACTION:**

John "Jack" Hilmes moved staff recommendation Part A) to find that the requested rezoning is not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 9-0.

And

John "Jack" Hilmes moved staff recommendation Part B) to deny the requested amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Commercial: Pedestrian-Oriented, Commercial Corridor to Commercial: Auto-Oriented, Small-Scale Strip Development; and Part C) to deny the requested rezoning.

*Staff further suggests that the applicant seek a Use Variance should the requested rezoning be denied by the City Council. The Board of Adjustment cannot consider a Use Variance request until the applicant has been denied the required zoning by the City Council. A Use Variance would give the City greater control than Limited "C-2" zoning*

Motion passed 9-0

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is stylized and cursive.

Michael Ludwig, AICP  
Planning Administrator

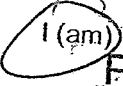
MGL:clw

Attachment

Item 2012 00048

Date 4-11-13

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



RECEIVED

COMMUNITY DEVELOPMENT

APR 16 2012

DEPARTMENT

Print Name Jeffrey Rosewall

Signature *Jeffrey Rosewall*

Address 3209 57 ST

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

Five horizontal lines for providing reasons for opposing or approving the request.