

Date May 6, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 4, 2013, its members voted 12-0 in support of a motion to recommend **DENIAL** of a request from Miguel Saucedo (purchaser) to rezone property located at 1161 22nd Street from R1-60 One-Family Low Density Residential District to R-4 Multiple-Family Residential District because the proposal is contrary to the goals of the recently adopted Drake Neighborhood Plan, reasoning that new multiple-family residential development should occur on the major corridors in the neighborhood where the streets are designed to handle higher levels of traffic and where residents would have direct access to mass transit. Multiple-family development should occur on lots that are large enough to provide adequate off-street parking, open space and buffering from other uses; and

WHEREAS, on April 22, 2013 by Roll Call No. 13-0644, the City Council set a public hearing on the proposed rezoning for May 6, 2013 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

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

Lot 24, Cottage Grove Replat, 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 April 25, 2013, 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 6, 2013

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 R1-60 One-Family Low Density Residential District to R-4 Multiple-Family Residential 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

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:

[Handwritten signature of Michael F. Kelley]

Michael F. Kelley
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include 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 _____

Agenda Item 44

Roll Call # _____

April 15, 2013

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 4, 2013, the following action was taken regarding a request from Miguel Saucedo (purchaser) to rezone property at 1161 22nd Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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
Dory Briles	X			
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 Stogdill				X
Greg Wattier				X

APPROVAL of Part A) to reopen the hearing for the request that was closed on March 7, 2013.

By separate motion Commissioners recommended 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
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			

Commission Action:	Yes	Nays	Pass	Absent
Christine Pardee	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill				X
Greg Wattier				X

APPROVAL of Part B) to find the proposed rezoning is **not** in conformance with the current Des Moines' 2020 Community Character Plan future land use designation of Low/Medium Density Residential.

By separate motion Commissioners recommended 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
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 Stogdill				X
Greg Wattier				X

DENIAL of Part C & D) to amend the requested Land Use and to rezone to "R-4" Multiple-Family Residential District. The proposal is contrary to the goals of the recently adopted Drake Neighborhood Plan. New multiple-family residential development should occur on the major corridors in the neighborhood where the streets are designed to handle higher levels of traffic and where residents would have direct access to mass transit. Multiple-family development should occur on lots that are large enough to provide adequate off-street parking, open space and buffering from other uses.

(21-2013-4.05 & ZON2013-00019)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission reopen the hearing for the request that was closed on March 7, 2013.

Part B) Staff recommends that the Commission find the proposed rezoning not in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Low/Medium Density Residential.

Part C & D) Staff recommends denial of the requested Land Use Plan amendment and rezoning to "R-4" Multiple-Family Residential District. The proposal is contrary to the goals of the recently adopted Drake Neighborhood Plan. New multiple-family residential development should occur on the major corridors in the neighborhood where the streets

are designed to handle higher levels of traffic and where residents would have direct access to mass transit. Multiple-family development should occur on lots that are large enough to provide adequate off-street parking, open space and buffering from other uses.

Written Responses

- 1 In Favor
- 5 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The existing building was originally constructed as a single-family dwelling and was since converted to a 9-unit, multiple-family residential use. However, the property has since lost its non-conforming rights to multiple-family use since it has been vacant for an extended period, as the most recent rental certificate expired July 14, 2011 (Housing Rental Certificate 2009-05191). The applicant now proposes to convert the building to a 5-unit multiple-family residential use and must seek a rezoning to do so.

The subject property measures 8,450 square feet. The proposed 5 dwelling units would represent one unit per 1,690 square feet of lot area. An "R-4" designation is necessary since it is the least intensive zoning district that would allow the proposed density. The "R-4" District allows one dwelling unit per 850 square feet of lot area. In comparison, the "R-3" District allows one unit per 2,500 square feet of lot area, and the "C-2" and "NPC" Districts allow one unit per 2,000 square feet of lot area.

2. **Size of Site:** 50 feet by 169 feet (8,450 square feet).
3. **Existing Zoning (site):** "R1-60" One-Family Low Density Residential District.
4. **Existing Land Use (site):** Vacant residential building.
5. **Adjacent Land Use and Zoning:**
 - North* – "R1-60" & "C-2"; Uses are single-family residential.
 - South* – "R-3"; Use is a 4-unit multiple-family building.
 - East* – "C-2"; Uses are a duplex and a single-family dwelling.
 - West* – "R1-60" & "C-2"; Uses are single-family residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located to the south of the University Avenue corridor in an area that contains a mix of single-family and small multiple-family buildings.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Drake and Drake Park Neighborhoods and within 250 feet of the Carpenter Neighborhood. The neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood on February 15, 2013.

Additionally, separate notifications of the hearing for this specific item were mailed on February 25, 2013 (20 days prior) and February 15, 2013 (10 days prior to the scheduled hearing) to these neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on March 1, 2013.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Drake Neighborhood Association mailings were sent to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311. The Drake Park Neighborhood Association mailings were sent to Bill Cappuccio, 1084 24th Street, Des Moines, IA 50311. The Carpenter Neighborhood Association mailings were sent to Robert Gieber, 2315 Carpenter Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** This property was rezoned from "R-3" District to "R1-60" District by the City Council on February 4, 2002 as part of a large scale "down-zoning" initiated by the Drake Neighborhood Association in partnership with the City.
9. **2020 Community Character Land Use Plan Designation:** Low/Medium Density Residential. This designation is described as areas developed with a mix of single-family, duplex and small multi-family units, up to 12 units per net acre.

The proposed High-Density Residential designation is described as areas developed with high-rise and mid-rise buildings with over 17 units per acre.

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. **Landscaping & Buffering:** If the rezoning is approved, the applicant will be required to prepare a Site Plan in accordance with the Design Guidelines applicable for multiple-family residential. The City's Landscaping Standards for the "R-4" District that apply to this site consists of the following.
 - *Open Space* equal to 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub per 2,500 square feet of required open space.
 - *Bufferyard* with a minimum width of 10 feet with a 6-foot tall opaque fence/screen, and 2 overstory trees and 6 evergreen trees per 100 lineal feet.
2. **Parking:** The Zoning Ordinance requires a minimum of 1.5 off-street parking spaces per unit. A total of 8 spaces would need to be provided for the proposed 5 dwelling units. If the rezoning is approved, the applicant will be required to prepare a Site Plan that addresses the parking requirements of the Zoning Ordinance and to develop the site in accordance with that site plan.

- 3. **2020 Community Character Plan:** The Des Moines 2020 Community Character Plan and the Drake Neighborhood Action Plan future land use designation for the subject property is Low/Medium Density Residential. The requested rezoning to "R-4" District is not in conformance with this designation. The applicant is requesting the designation on the Land Use Plan be amended to High Density Residential. This amendment is necessary for the requested rezoning to be found in conformance with the future land use plan. This designation is described as areas developed with high-rise and mid-rise buildings with over 17 units per acre.

In 2011, the City adopted the Drake Neighborhood Action Plan to guide future development and redevelopment within the neighborhood. The plan calls for multiple-family buildings originally constructed as single-family dwellings to be restored to single-family dwellings and for new multiple-family residential development to occur along the major corridors in the neighborhood.

The following is from page 59 of the Drake Neighborhood Plan.

Over a period of several decades, a significant number of single-family residential dwellings in these two areas were converted into multiple-family residential structures. Impacts to the neighborhood have included traffic congestion, illegal parking of vehicles due to lack of off-street parking areas, incompatible additions and exterior stairwells to structures, and a perception that the area is a less than desirable place to live. In 2001, the City Council initiated a rezoning in the area south of University Avenue from —R-3ll Multiple Family Residential District to —R1-60ll One-Family Low-Density Residential District in order to prevent additional conversions from occurring. Slowly, some of the previous conversions to multi-family residences are being renovated and converted back to single-family homes.

The Drake Neighborhood Association supports the continued reduction of density in these two areas, and prefers that the original single-family character be restored. However, because built-as multiple-family properties and conforming conversions are also present in these areas, the land use classification will remain —low/medium density residentialll, which allows for a mixture of single-family and small multiple-family structures. The current density of units per acre for both areas (9.27 units per acre south of University and east of 31st Street, and 11.04 units per acre in the Carpenter neighborhood) falls within the 6-12 units per acre range specified under the —low/medium density residential designation. This density level is expected to continue into the foreseeable future. Site plan review standards for multiple-family dwellings ensure that any new construction or addition of units is of a scale and character that is compatible with the surrounding area.

The following is from page 60 of the Drake Neighborhood Plan.

The Drake neighborhood recognizes the value of residential density, and the need for multiple family properties to house the University's student population as well as to serve a broad range of resident needs. Higher residential densities should be encouraged along the major corridors in order to support commercial districts and utilize mass transit routes. The Drake neighborhood supports the construction of high quality, multi-family development projects, particularly along University Avenue, Forest Avenue, and Martin Luther King, Jr. Parkway, as well as land adjacent to Drake University. The Neighborhood Association would like to participate in site

plan review for multi-family development proposals, to ensure they are of a scale and character that blends well with the neighborhood.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Mark Critelli MAC Investment Group stated that the owner has not been able to market this property for a single-family dwelling. He agrees that the former 9-plex request would not be adequate for the area. The owner believes that the appropriate zoning for the area would be for a 4-plex and asked that the application reflect that. If this property is not rezoned it will probably sit vacant for awhile it will not be back on the taxroll and ultimately turned into a vacant lot. The tax owed on this property is in excess of approximately \$25,000. The purchaser for this property subject to rezoning has a history of doing quite a bit of work with the Latino Community.

Ted Irvine joined the meeting.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor of the applicant's request.

Carmen Hawkins, realtor introduced the applicant Miguel Saucedo. She stated that she saw great potential for this property. However, part of the house was damaged by a fire. She stated that the applicant would purchase this property with the condition that it would be a leased for 3 units. This property is too large to sell as a single-family home. She pointed out that the family who would purchase this property would have to be very large and they would need to be able to afford the utilities.

She stated that Mr. Saucedo owns his own construction company and has had much success at remodeling homes and selling them. For this property he would like to give people the opportunity to rent.

JoAnne Corigliano stated she would have to see the plan for the house in order to make any assessment. She asked if the applicant had any drawings showing the plan for this property.

Carmen Hawkins stated the applicant did not have any drawings right now. She stated that there would be very large apartments. If the decision is not to rezone this property the purchaser would not be interested in purchasing this property.

Shirley Daniels asked if the purchaser was planning to live at this property.

Carmen Hawkins stated no, the purchaser lives in West Des Moines. It would be an investment property for him.

The following spoke in opposition of the applicant's request

Deric Gourd 2424 Drake Park, Drake Neighborhood Association president stated after the Plan and Zoning Commission meeting on March 7, 2013 the neighborhood association met and the consensus is to support the neighborhood plan to convert to single family in any case that they can. There have been cases where the property could not be salvaged

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and had to be torn down and a single-family dwelling built. The developer is the type of person the neighborhood would like to see in the neighborhood. This property is a 50 foot wide lot for a very large house that was built when they did not have cars. Putting multi-family units in this area would increase the density and the need for parking. Therefore, he asked that the Commission deny the applicant's request.

Frank Affannato 1128 22nd Street stated the zoning was changed from almost anything goes to R1-60 for a reason. All the apartments that were historically converted from single-family homes have been a problem including the applicant's property prior to burning. There have been several properties converted from multi-family to single-family and have had no problems, instead it has greatly improved the neighborhood and has increased property values. He believes that rezoning this property would be a travesty and asked that the applicant's request for rezoning be denied.

Christine Pardee asked if he is aware of any historical significance for this property.

Frank Affannato stated that at one time it was a nice home but he is not aware of any historical significance.

Christine Pardee asked if neighborhood prefers that this property be made into a vacant lot.

Frank Affannato stated he would prefer a vacant lot instead of a multi-family residential use.

Micah Mullenix 723 Douglas Avenue representing Des Moines Building and Land Company stated his company has converted a few multi-family dwellings back to a single-family dwelling. He previously considered purchasing this property with the idea of tearing it down and building something more accurate for the lot size. He asked that the applicant's request be denied and to retain the single-family zoning.

John "Jack" Hilmes asked what attracted his company to devote resources in reducing multi-family units to single-family units and if they met some type of criteria that this property does not.

Micah Mullenix stated the cost would be tremendous to do the job correctly and the unit is very large.

Bill Cappuccio 1084 24th Street, Drake Park Neighbors Chair stated he has polled a number of neighbors on 22nd Street and it was discussed at the neighborhood meeting last month. The consensus is they do not support a zoning change. The applicant has never met with either of the neighborhood associations. Before the fire this building was very problematic in reference to the activities that took place there. He pointed out a few large structures that have been converted from a multi-family use to a single-family use. The parking would be a problem if this property was rezoned to a multi-family unit. If this property became a vacant lot, he does not see a problem with someone wanting to build a single-family dwelling unit on it.

Carmen Hawkins stated she called both neighborhoods a few times and there was no answer. She left messages and no one returned her call. She finally went to one of their residences to try and explain what the applicant would like to do with this property.

Rebuttal

Mr. Critelli stated his company and Micah Mullenix company negotiated over several months on about 4 or 5 properties and was very happy to do so. However, due to some constraints they were unable to enter into a contract for this property. After that they attempted to market this property for a single-family unit with no interest.

CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano stated she believes that the Drake Neighborhood Association worked very hard to develop a neighborhood plan and it was adopted by the City Council.

Will Page stated the applicant might want to choose another building.

COMMISSION ACTION:

John "Jack" Hilmes moved staff recommendation for Part A) to reopen the hearing for the request that was closed on March 7, 2013. Motion carried 12-0.

Greg Jones moved staff recommendation Part for B) to find the proposed rezoning is not in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Low/Medium Density Residential.

Motion passed 12-0.

Greg Jones moved staff recommendation for Part C & D) to deny the requested Land Use Plan amendment and rezoning to "R-4" Multiple-Family Residential District. The proposal is contrary to the goals of the recently adopted Drake Neighborhood Plan. New multiple-family residential development should occur on the major corridors in the neighborhood where the streets are designed to handle higher levels of traffic and where residents would have direct access to mass transit. Multiple-family development should occur on lots that are large enough to provide adequate off-street parking, open space and buffering from other uses.

Motion passed 12-0.

Respectfully submitted,



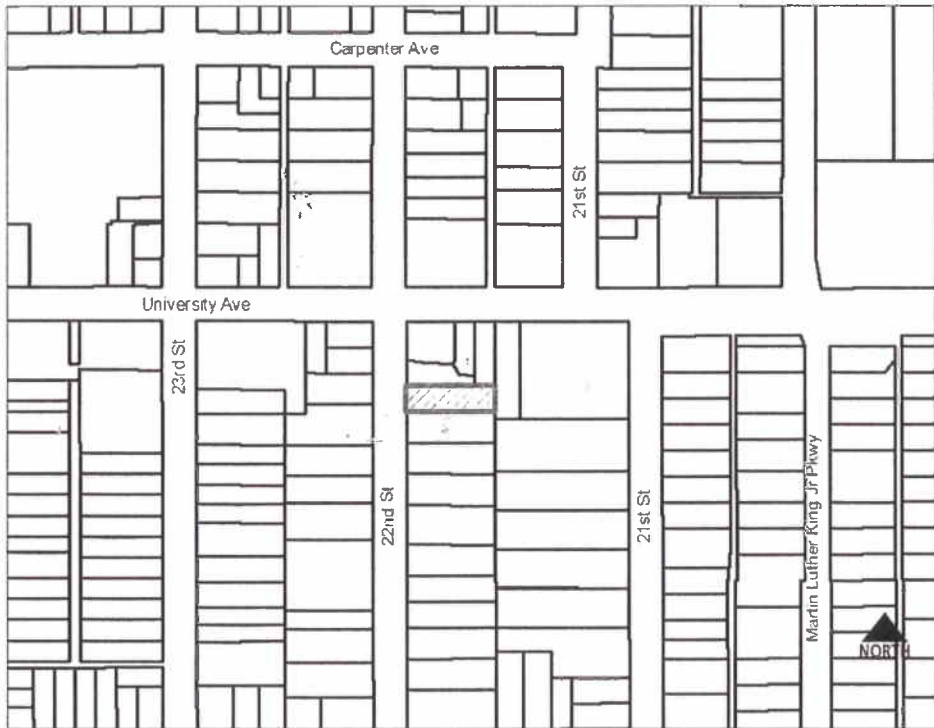
Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Request from Miguel Saucedo (purchaser) to rezone property at 1161 22 nd Street. The subject property is owned by MAC Investment Group, LLC.				File # ZON2013-00019	
Description of Action	Denial of a request to rezone property from "R1-60" One-Family Low Density Residential District to "R-4" Multiple-Family Residential District, to allow conversion of a dwelling with rights for a single-family use to a five-unit multiple-family dwelling. The previous legal non-conforming rights for a nine-unit multiple-family dwelling are determined to have expired for this property under provisions in the Zoning Ordinance.				
2020 Community Character Plan	Low/Medium Density Residential (current) High-Density Residential (proposed)				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low Density Residential District				
Proposed Zoning District	"R-4" Multiple-Family Residential District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	5			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	12-0		No	

Mac Investment Group LLC (Miguel Saucedo) - 1161 22nd Street ZON2013-00019





Item ZON2013-00019

Date 3-27-13
4-4-13 meeting

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

(Circle One)



Print Name Helen Martin

Signature Helen Martin

Address 1045-22nd St,

Des Moines, Iowa
50311

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

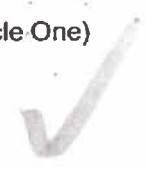
I prefer not to add more
apartment houses to the
neighborhood. Perhaps the
owner would like to sell it
to someone wanting a single family home.

Item 2013 0019

Date 3/9/2013

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

(Circle One)



Print Name KATHY LANGFORD

Signature Kathy Langford

Address 1165-22nd DM Ex 50311

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

No Particular Reason - Long AS
there is no Drug Problem.

Item ZON2013-00019

Date 3/28/13
4-4-13 meeting

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

(Circle One)

Print Name Caron Koch

Signature [Signature]

Address 2100 University Ave, DSM, 50311

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

Over the last three years my neighborhood has shown much improvement due to families buying houses, restoring them and living in them. Sadly, businesses continue buying area homes and destroying their historic value by making them multi-family dwellings then renting to persons who don't care about the property or nearby residents. That is preventing my neighborhood from continued improvement. We need your help; please vote no.

Item ZON2013-00019

Date 3-28-2013
4-4-13 meeting

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

(Circle One)

CARPENTER NEIGHBORHOOD ASSN

Print Name ROBERT GIEBER

Signature [Signature]

Address 2315 Carpenter Ave.

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

This house should remain a single-family house. The population density of the neighborhood is already among the highest in the city. Single-family homes stabilize neighborhoods.

Item 2013 0019 Date 3/4/13

I (am) in favor of the request.

(Circle One)

Print Name Ryan Winter/RE Specialists LLC
Signature Ryan Winter
Address 1159 22nd St, DM IA

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

Neighborhood does NOT need more
house conversions. Single family or duplex
would be best. Where will the new
tenants park? Street is already packed.
Neighborhood is ^{finally} revitalizing and does NOT
need more house conversions.

Item ZON2013-00019 Date 3/28/2013
4-4-13 meeting

I (am) in favor of the request.

(Circle One)

Print Name DSMBLC HOLDINGS
Signature [Signature]
Address 6003 WATERBURY CR

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

DSMBLC HAS SIGNIFICANT CONCERN WITH
DENSITY PROPOSED. OUR CORPORATION HAS
HEAVY INVESTMENT IN SURROUNDING PROPERTY
DENSITY REDUCTION + HISTORICAL
REHABILITATION OF NEIGHBORHOOD.