



Date April 6, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM STRATFORD HOLDING, LLC
TO REZONE PROPERTY LOCATED AT 1372 EAST 14TH STREET FROM
“C-1” NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT TO
“C-2” GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT**

WHEREAS, on March 23, 2015, by Roll Call No. 15-0497, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on March 5, 2015, its members voted 9-0 in support of a motion to recommend **DENIAL** of a request from Stratford Holding, LLC (owner), represented by Mark Langfan (officer), to rezone real property locally known as 1372 East 14th Street from “C-1” Neighborhood Retail Commercial District to “C-2” General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or liquor store; and

WHEREAS, on March 23, 2015, by Roll Call No. 15-0497, it was duly resolved by the City Council that the application of Stratford Holding, LLC, to rezone the Property, legally described as follows, be set down for hearing on April 6, 2015 at 5:00 p.m. in the Council Chambers at City Hall:

Lots 444 and 445 in POLK & HUBBELL’S ADDITION TO THE TOWN OF CAPITAL PARK, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed rezoning; and

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

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 and any statements of interested persons and arguments of counsel, any and all comments for and against the proposed rezoning of the Property to “C-2” General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or a liquor store, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by _____ to adopt and DENY the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning:

- a. The City Plan and Zoning Commission voted 9-0 to recommend denial of the requested rezoning of the Property to “C-2” General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or a liquor store.
- b. The proposed rezoning is not in conformance with the character of the adjoining residential neighborhood, due to the proximity of single-family residences and safety concerns, and is not supported by the Northeast Neighbors, Inc. consortium of neighborhood associations.



Roll Call Number

Agenda Item Number

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- c. As currently zoned, the owner may request a Conditional Use Permit to continue sales of wine and beer on the Property as a limited food/retail sales establishment.
- d. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by _____ to continue the public hearing until April 20, 2015, at 5:00 p.m. in the Council Chambers, and to direct the City Manager and Legal Department to prepare the necessary legislation to APPROVE the rezoning subject to conditions acceptable to the City and the owner.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2015-00030)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Commission's recommendation for denial. Des Moines City Code §134-4.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

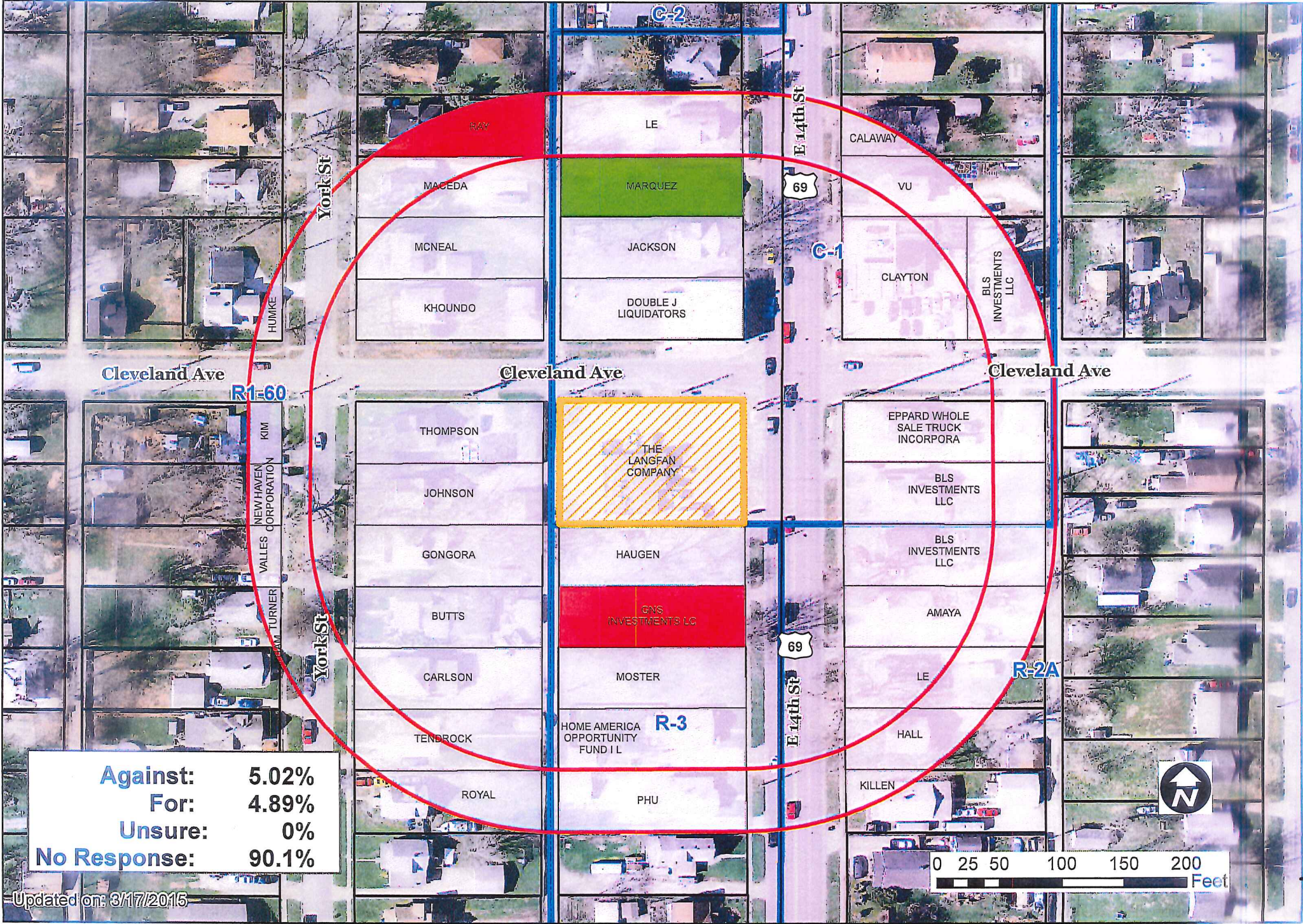
Mayor

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



Against:	5.02%
For:	4.89%
Unsure:	0%
No Response:	90.1%

Updated on: 3/17/2015

976



March 17, 2015

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 March 5, 2015, the following action was taken regarding a request from Stratford Holding, LLC (owner) represented by Mark Langfan (officer) to rezone property located at 1372 East 14th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano				X
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones	X			
William Page				X
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

APPROVAL of staff recommendation that the requested rezoning be found 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
Dory Briles	X			
JoAnne Corigliano				X
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones	X			
William Page				X
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

DENIAL of the requested rezoning to a "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District. (ZON2015-00030)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends denial of the request to rezone property from "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District.

If the Commission votes in favor of the rezoning request, staff recommends that any approval include a condition that limits permitted uses of the property to those uses as permitted in the "C-1" Neighborhood Retail Commercial District or limited food sales establishments.

Should the rezoning be denied by the City Council, the applicant would be eligible to apply for a Conditional Use Permit from the City's Zoning Board of Adjustment necessary for a limited food sales establishment selling beer and wine only (no alcoholic liquor). Otherwise, in order to continue selling alcoholic liquor, the applicant would be eligible to apply for a Use Variance from the City's Zoning Board of Adjustment. If the Use Variance is granted, the Board could then consider a Conditional Use Permit for either a limited food sales establishment or a liquor store.

Written Responses

- 1 In Favor
- 3 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The requested rezoning would allow the applicant the right to request a Conditional Use Permit that is necessary to continue selling alcoholic liquor, wine, and beer as either a limited food sales establishment or as a liquor store. The business has been permitted to sell alcohol as a food sales establishment so long as no more than 40% of their overall sales were derived from the sale of liquor, wine, beer, and tobacco products. However, recent revisions to the Zoning Ordinance require all limited food sales establishments selling alcohol to obtain a Conditional Use Permit in order to continue selling alcohol.

At any time the business files an application for a Conditional Use Permit with the Zoning Board of Adjustment, they must submit an audit that demonstrates the percentage of their overall sales that have been derived from the sale of liquor, wine, beer, and tobacco products. If total sales from liquor, wine, beer, and tobacco products are under 40%, they can request a Conditional Use Permit for a limited food sales establishment. If sales from such exceed 40%, then they must request a Conditional Use Permit for a liquor store. As detailed later in the report, the business would only be subject to the current separation distance requirements if they convert the business from a limited food sales establishment to a liquor store. The subject property does not satisfy the separation distances required for a liquor store since there are four (4) licensed child care facilities within 500 feet of the site.

The building was originally constructed as a gas station/convenience store and, as such, was permitted to sell beer. In 2004, the building was converted from a "gas station convenience store" use to a "grocery store" use, at which time the gas canopy was demolished in accordance with Building Permit BLD2004-00166. As a "grocery store", the business was allowed to sell alcoholic liquor, wine, and beer, so long as they derived no more than 50% of their overall sales from such. The initial liquor license for the premise took effect on January 13, 2005.

Should the rezoning be denied by the City Council, the applicant would be eligible to apply for a Conditional Use Permit from the City's Zoning Board of Adjustment necessary for a limited food sales establishment selling beer and wine only (no alcoholic liquor). Otherwise, in order to continue selling alcoholic liquor, the applicant would be eligible to apply for a Use Variance from the City's Zoning Board of Adjustment. If the Use Variance is granted, the Board could then consider a Conditional Use Permit for either a limited food sales establishment or a liquor store.

2. **Size of Site:** 14,485 square feet or 0.33 acre.
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District, "VDL" Vehicle Display Lot Overlay District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The site includes a 2,156-square foot commercial building occupied by a limited food and retail sales establishment known as Shop 'N Save. The business also selling "Champs Chicken" brand prepared food.

5. Adjacent Land Use and Zoning:

North – “C-1”, Use is a two-story mixed use (commercial and residential) building.

South – “R-3”, Uses include a vacant lot and a single-family dwelling.

East – “C-1”, Uses are single-family family residential.

West – “R1-60”, Uses are single-family family residential.

6. General Neighborhood/Area Land Uses: The subject property is located along a segment of East 14th Street that contains a mix of commercial and single-family residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Capitol Park Neighborhood and within 250 feet of the Martin Luther King, Jr. Park Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on February 13, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on February 13, 2015 (20 days prior to the scheduled hearing) and on February 23, 2015 (10 days prior to the scheduled hearing) to the Capitol Park Neighborhood, the Martin Luther King, Jr. Park Neighborhood, 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 February 27, 2015.

All agendas and notices are mailed to the contact person(s) designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Capitol Park mailings were sent to Chelsea Lepley, 1253 East 12th Street, Des Moines, IA 50316 and the Martin Luther King, Jr. Park Neighborhood mailings were sent to Curt Wagner, 1317 Hutton Street, Des Moines, IA 50316.

The applicant is set to hold their neighborhood meeting on March 2, 2015. A summary of the neighborhood meeting will be provided at the hearing.

8. Relevant Zoning History: N/A.

9. 2020 Community Character Land Use Plan Designation: Commercial: Auto-Oriented Small-Scale Strip Development.

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

- Zoning History:** The Zoning Ordinance was amended by Ordinance No. 14,980 on December 6, 2010, to lower the percentage of revenues that a business can derive from the sale of alcoholic liquor, wine, beer, and tobacco products without being classified as a liquor store, from 50 percent to 40 percent. Businesses then in existence were allowed until December 31, 2013, to conform to the new requirement that no business other than a liquor store can derive more than 40% of its revenues from the sale of alcoholic liquor, wine, beer and tobacco products.

The Zoning Ordinance was amended again by Ordinance No. 15,059 passed October 24, 2011, to require a Conditional Use Permit for any limited food sales establishment selling alcoholic liquor, wine, or beer. Businesses then in existence were allowed to operate until December 31, 2013, at which time a Conditional Use Permit is required prior to issuance of any further liquor license, beer permit, or wine permit.

The Zoning Ordinance was further amended by Ordinance No. 15,133 on September 10, 2012, to increase the separation distance requirements from schools, churches, parks, daycares, and certain other establishments selling alcoholic liquor. Existing businesses that had a current liquor license, beer permit, or wine permit on July 1, 2012, are not subject to the revised separation distances. Therefore, the separation distances are not applicable to the subject business so long as it continues to operate as a limited food sales establishment. However, if they were to convert to a liquor store, the site would not comply with the separation distance requirements since there are four (4) licensed child care facilities within 500 feet of the site.

- Businesses Selling Liquor, Wine, and Beer:** Any future request for a Conditional Use Permit would be subject to the following regulations applicable for businesses selling liquor, wine, and/or beer:

Sec. 134-954. Selling of liquor, wine and beer.

The use of land in all districts for the sale of alcoholic liquor, wine and beer is subject to the restrictions set forth in this section.

- The sale of alcoholic liquor, wine and beer is permitted only in the zoning districts and subject to the conditions applicable to the business identified in the table below:*

	Sale of Alcoholic Liquor		Sale of Wine and Beer	
	C-1, C-1A & D-R Districts	C-2, NPC and less restrictive Districts	C-1, C-1A & D-R Districts	C-2, NPC and less restrictive Districts
Food Sales Establishments and Retail Sales Establishments				
Limited (less than 12,000 sq ft)	Not Allowed	CUP 40% of sales 500 feet 1/4 mile	CUP 40% of sales 150 feet	CUP 40% of sales 150 feet
General (12,000 sq ft or larger, but less than 40,000 s ft)	40% of sales 75 feet	40% of sales 75 feet	40% of sales 75 feet	40% of sales 75 feet

Large (40,000 sq ft or larger)	40% of sales 75 feet	40% of sales 75 feet	40% of sales 75 feet	40% of sales 75 feet
Gas Station/ Convenience Stores (not allowed in D-R)	Not Allowed	CUP 40% of sales 500 feet 1/4 mile	40% of sales 150 feet (C-1 & C-1A only)	40% of sales 150 feet
Liquor Stores	Not Allowed	CUP 500 feet 1/4 mile	Not Allowed	CUP 150 feet
Restaurants	50% of sales 75 feet	50% of sales 75 feet	50% of sales 75 feet	50% of sales 75 feet
Taverns and Night Clubs (not C-1 & C-1A)	CUP (D-R only)	CUP 150 feet	CUP (D-R only)	CUP 150 feet

Where used in the table above the following terms shall have the meaning identified below:

- 1) **CUP means that a conditional use permit must be obtained for such use as further provided in this section.**
 - 2) **40% of sales means that no more than 40 percent of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine, beer or tobacco products.**
 - 3) *50% of sales means that at least 50 percent of the gross receipts by a restaurant must be derived from the sale of prepared food and food-related services.*
 - 4) *75 feet means that the premises occupied by such use must be separated by at least 75 feet from any church, school, public park or licensed child care facility as defined by I.C. ch. 237A. However, this condition is not applicable in the C-3, C-3A, C-3B, C3-R and D-R Districts.*
 - 5) *150 feet means that the premises occupied by such use must be separated by at least 150 feet from any church, school, public park or licensed child care facility as defined by I.C. ch. 237A. However, this condition is not applicable in the C-3, C-3A, C-3B, C3-R and D-R Districts.*
 - 6) **500 feet means that the premises occupied by such use must be separated by at least 500 feet from any church, school, public park or licensed child care facility as defined by I.C. ch. 237A. However, this condition is not applicable in the C-3, C-3A, C-3B, C3-R and D-R Districts.**
 - 7) **1/4 mile means that the premises occupied by such use must be separated by at least one-fourth mile from any other limited food sales establishment, limited retail sales establishment, gas station/convenience store and liquor store engaged in the sale of alcoholic liquor. However, in the C-3, C-3A, C-3B, C3-R and D-R Districts this condition is only applicable to liquor stores.**
- b. *A conditional use permit is required for the use of a premises for the sale of alcoholic liquor, wine or beer, under the circumstances identified in subsection (a), above. The board shall grant such a conditional use permit only where the business, when operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:*
- 1) *The business conforms with the conditions identified in subsection (a), above.*
 - 2) *The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.*
 - 3) *The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.*
 - 4) *The business will not unduly increase congestion on the streets in the adjoining residential area.*
 - 5) *The operation of the business will not constitute a nuisance.*

- c. *Any conditional use permit granted by the board of adjustment for the use of a premises for the sale of alcoholic liquor, wine and beer shall be subject to the following general conditions, together with such additional special conditions as may be reasonably required by the board to ensure that the criteria in subsection (b), above, are satisfied:*
- 1) *Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.*
 - 2) *The business shall comply with article IV of chapter 42 of this Code pertaining to noise control. The business shall have no outside speakers or amplified sound except when used in compliance with a type E sound permit.*
 - 3) *Any such business must comply with the following requirements:*
 - a. *Every limited food sales establishment, limited retail sales establishment and gas station/convenience store shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other business selling alcoholic liquor for off premises consumption shall either: i) display alcoholic liquor only in a locked case or behind a counter accessible only to employees; ii) employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or iii) have more than one employee on duty at all times the business is open to the public.*
 - b. *Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.*
 - c. *Institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.*
 - d. *Not dispense alcoholic beverages from a drive-through window.*
 - 4) *Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.*
 - 5) *The conditional use permit is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the conditional use permit.*
 - 6) *If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions set forth in the conditional use permit, the zoning enforcement officer may apply to the board to reconsider the issuance of the conditional use permit for such business. A copy of such application and notice of the hearing before the board on such application shall be provided to the owner of such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board finds that the operation of such business exhibits a pattern of violating the conditions set forth in the conditional use permit, the board shall have the authority to amend or revoke the conditional use permit.*

3. **2020 Community Character Land Use Plan:** In October of 1995, the City Council adopted the Capitol Park Neighborhood Action Plan as an element of the 2020 Community Character Land Use Plan. This plan amended the future land use designation for the properties along the west side of East 14th Street to Commercial: Auto-Oriented Small-Scale Strip Development. This designation is generally located along major commercial corridors with the City since it allows for commercial uses that are primarily focused on the needs of motorists. The requested "C-2" District could conform with this designation.
4. **Staff Rationale:** The surrounding area is predominantly residential in character with some businesses located along East 14th Street. Staff does not believe that the "C-2" District is appropriate for this location, given the various permitted uses, such as a liquor store or tavern that would not be compatible with the residential uses in close proximity.

Should the rezoning be denied by the City Council, the applicant would be eligible to apply for a Conditional Use Permit from the City's Zoning Board of Adjustment for a

limited food sales establishment selling beer and wine only (no alcoholic liquor).

Otherwise, in order to continue selling alcoholic liquor, the applicant would be eligible to apply for a Use Variance from the City's Zoning Board of Adjustment. If the Use Variance is granted, the Board could then consider a Conditional Use Permit for either a limited food sales establishment or a liquor store.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Greg Wattier asked if the new rules prompted this request.

Jason Van Essen stated the applicant had until December 31, 2013 to come into conformance with the new requirements. Since that time they have been working through it and is now before the Commission tonight.

Mike Ludwig stated the applicant was required to comply with the new sales requirements. It is not saying the use could not be there but the intent of the code was to give the opportunity or time to adjust the mix of sales within their business to increase non-alcohol, non-tobacco sales and obtain additional revenue from other items being sold. Even if the applicant was allowed to rezone this property, they would still be limited to 40% of their revenue from a beer, wine, liquor and tobacco standpoint. If it was over 40% they would need to seek a conditional use permit for a liquor store from the Board of Adjustment. There is a concern about a liquor store being on the property. Staff has pointed out that there are no other "C-2" zoned properties in the area. It makes sense for "C-1" zoning and if they want to seek a Use Variance in a "C-1" zoning district that might be a better approach for the applicant.

Greg Wattier asked if it were to become a liquor store are there any police records or any records of anything that would lead to staff's concern.

Jason Van Essen stated that staff's concern is not based on police records it is more of is this an appropriate spot for "C-2" zoning, the size of the property, the proximity to the residential buildings that are very close to the property lines.

CJ Stephens asked if it would be considered spot zoning if they just approved a "C-2" in one location in the area.

Jason Van Essen stated it is in a commercial area with "C-1" zoning around it.

CHAIRPERSON OPENED THE PUBLIC HEARING

Lloyd Ogle 301 E. Walnut attorney representing the lease holder who has been the business owner of this property since it opened in 2005. They would like to emphasize that they are not looking to rezone the property in order to do something different but to rezone in order to continue to do what they have done in the past 10 years. They have made every effort to comply with the changes in the ordinances that has been placed on this property. They will be submitting an audit. They have changed their business model, they are offering more food. They do comply with the 40% limit sales of alcohol, tobacco and beer. However, that liquor sales is about 10% of their revenue and over 50% of their profit. He pointed out that

the 2020 plan does talk about this being zoned "C-2". His client does work hard to support the community, he limits the store hours from 9:00 a.m. to 11:00 p.m., he helps clean up the neighborhood property in the area and he keeps the alcohol behind the counter. There is no history of problems with the police. He is looking at adding green space along the right-of-way to improve the appearance. He is looking to rebrand the store and he has added a grease trap. They believe they have the best practice in place and it could be negotiated in cooperation with the neighborhood associations and the Zoning Board of Adjustment in a conditional use permit. He would like to remain the same business that he has been the last 12 years. They have just started dialogue with the neighborhood association and will continue dialogue. The applicant just wants the opportunity to stay in business and to continue to be productive tax paying members of the community.

Tim Fitzgerald asked if the lease holder has a license to sell food.

Mr. Nagra – stated yes

Tim Fitzgerald asked if the lease holder is competing with himself or is he competing with the mobile food vendor who is on the lot the majority of the time.

Lloyd Ogle stated that he competes with himself and he does not want to do anything to harm that mobile food vendor business.

Angela McBride 1363 Penn Avenue stated she is an active member in the neighborhood association. She stated that she and a small group of the neighborhood association members met with Mr. Nagra and his two attorneys on Monday night. It was a nice meeting. They talked about security, grease interceptors, rebranding, landscaping and synthetic drug market. She believes that Mr. Nagra is a gentle soul and a nice person. However, she believes the character of the corner of Cleveland and East 14th only meets the definition of "C-1" as a neighborhood retail establishment. Due to the proximity of so many residential single-family homes. The size of that building according to the Polk County Assessor's website is only 2,100 square feet and the lot is 14,000 square feet. She believes that the security issues have been severely downplayed. Mr. Nagra has had 32 calls at that address in 2014, the Oasis on 31st Street had 28 and the Oasis on Buchanan had 16. She believes there are problems going on in the alley. Mr. Nagra said that he did not believe he had a security problem and he does not need a security guard. She believes that is inaccurate based on the information they have. He has only had one fight in 2015 which was a fight in his store. The neighborhood association also believe that this store needs to be rebranded which it sounds like they are willing to do. If the Commission decides to approve the applicant's request they believe a security guard needs to be in place, limited hours of operation – noise ordinance is 10:00 p.m., perhaps limiting to beer and wine and no liquor, rebranding, new signage, improve landscaping and increase the percentage of sales for food.

Marjorie Ramsey 1519 York Street asked that the Commission deny the applicant's request. She has lived in the area since 1973 and there has been in the last few years a lot of gun activity surrounding that store. She is concerned with the safety and the look of the neighborhood. However, if the Commission vote in favor of the applicant's request she would like to see an agreement signed whereby the store will have an off-duty security officer for the evening hours or a private security company around the clock and she would like for them to close at 11:00 p.m.

Marlon Mormann 3320 Kinsey Avenue, President of Northeast Neighbors Inc. which is a consortium of neighborhood associations on the north and east side of Des Moines stated they voted on this issue and voted in opposition. Their concern is adding more liquor in a neighborhood that has already a lot of challenges is a bad thing. The neighborhood associations are firmly in opposition.

Rebuttal

Lloyd Ogle stated he does not believe the police calls should be a major focus consideration of the Plan and Zoning Commission. His understanding from his client is a lot of those calls were because of the parking lot when the police pull over cars on traffic offenses that address ends up being listed. They have very good relationship with the police liaison. They do not believe that this business attracts crime. However, if the police were to recommend some type of security guard presence there they would consider it. They do understand that they suffer with a perception issue but do not feel like this is a problem business. They are willing to listen to the neighborhood associations and if things like the security guard will give them a greater level of comfort they would do it. There are a great deal of surveillance cameras in this business.

Santokh Nagra 1372 E. 14th Street lease holder stated the police could tell the Commission about his security system. He helps them out a great deal, for example there was a fire and because of his security system the people responsible for the fire were arrested. He believes that 90% of the police calls listing his address is for the apartments in the back of his building and one other house near his business. They do not like people loitering in his parking lot and he runs a nice clean business and invited anyone to come and look at it. He notes that he has a good relationship with all of his neighbors and he has over 300 signatures in favor of his request.

Lloyd Ogle stated the following:

1. This request is only to continue to do what they have been doing
2. This is consistent with the 2020 Comprehensive Plan
3. That corner area consists of many businesses
4. This is not their last stop, they still have to get a conditional use permit no matter what. This is a good thing because it will allow them to continue to have a dialogue with the neighborhood associations as well as with City Staff. Through a conditional use permit there could be additional restrictions.

Santokh Nagra also pointed out that he has more property in the area where he has fixed them up and gave them to people who really need the house and he charges low rent. The addresses are 1353 and 1363 12th Street.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Tim Fitzgerald stated he will be moving staff recommendation. He commented that it does not make sense for the lease holder to sell food and have a mobile vendor in the parking lot.

CJ Stephens stated that the Commission has seen a lot of these requests to rezone in order to allow liquor sales recently. She asked staff to clarify the time line for anyone selling liquor to come into conformance.

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Mike Ludwig stated 2010-2011 when the ordinance changed it gave until December 31, 2013 to comply. That has been interpreted as the first renewal of their liquor license after December 21, 2013. More rezoning applications are likely.

CJ Stephens stated they have known for some time that they needed to come into compliance. Her concern is for the neighborhood. Anytime there is talk about needing a police at a business that means that problems in the neighborhood are being acknowledged and they need to stand behind the laws. She agrees with staff that these types of businesses need to be brought into compliance to help the neighborhoods. She also finds it interesting that these businesses come to the Plan and Zoning Commission meetings with attorneys, who are not cheap – her thought is couldn't this money be better spent to improve the business during the timeframe they were allowed.

COMMISSION ACTION:

Tim Fitzgerald moved staff recommendation Part A) to find the proposed rezoning in conformance with the existing Des Moines' 2020 Community Character Plan.

Motion passed 9-0.

Tim Fitzgerald moved staff recommendation Part B) to deny the request to rezone property from "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District.

Motion passed 9-0.

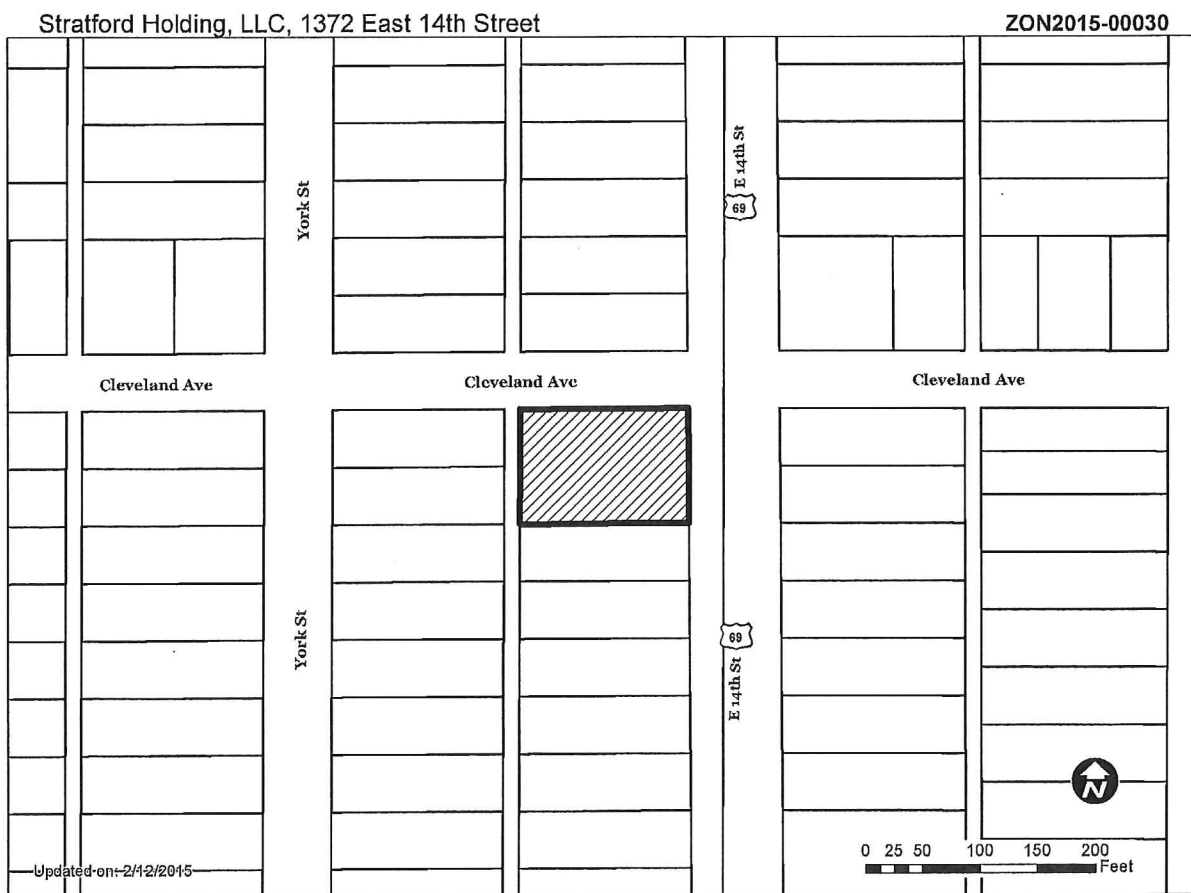
Respectfully submitted,

Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Stratford Holding, LLC (owner) represented by Mark Langfan (officer) for property located at 1372 East 14 th Street.		File # ZON2015-00030			
Description of Action	Denial of request to rezone property from "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or liquor store.				
2020 Community Character Plan	Current: Commercial, Auto-Oriented, Small-Scale Strip Development. Proposed: N/A.				
Horizon 2035 Transportation Plan	2026-2035: Widen East 14 th Street from 4 lanes to 5 lanes..				
Current Zoning District	"C-1" Neighborhood Retail Commercial District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	3			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	9-0		No	



1 Inch = 98 feet

Item ZON2015-00030

Date 2/25/15

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

(Circle one)
RECEIVED

COMMUNITY DEVELOPMENT

MAR 02 2015

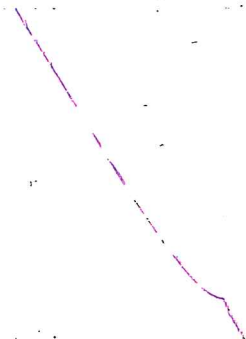
Print Name Roberto MARGUET

Signature Roberto Marguet

Address 1410 EST 14 ST, Des Moines

REASON FOR OPPOSING OR APPROVING THIS REQUEST MAY BE LISTED BELOW:

To have a better neighbor hood
and a Peace full place to
live.



Item ZON2015-00030

Date 3-2-15

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

Received at 09:315 PM 3/2/15

RECEIVED

(Circle One)

COMMUNITY DEVELOPMENT Print Name

Jason Ray

MAR 12 2015

Signature

[Handwritten Signature]

Address

1413 York St.

DEPARTMENT

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

Excessive traffic, Loitering, Multiple shots Fired reports,
under age cigarette sales, Trshy building, Does nothing
to improve neighborhood, ^{Taco} Food truck never leaves parking
lot and I doubt it gets inspected, Went except
Coupons, seen multiple fights in parking lot

Item ZON2015-00030

Date 3/4/15

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Capitol Park Neighborhood Ass

Signature [Signature]

MAR 04 2015

Address 1363 Pennsylvania Ave.

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

DEPARTMENT

Item ZON2015-00030

Date 2/25/15

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name GNS Investments, LLC

Signature [Signature]

MAR 02 2015

Address Po Box 37247 DMV
50315

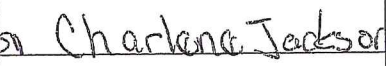







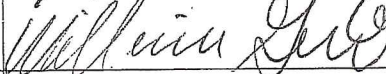

Reason for opposing or approving this request may be listed below:

DEPARTMENT
Drunk and disorderly conduct bothers tenants
so they move out. No screening and
vacant lot between us is used for
parking.

Shop N' Save llc 2
1372 E.14th Street
Des Moines, Iowa 50316

**Petition to obtain a Conditional Use Permit for Businesses Selling Wine,
 Liquor, Beer, and Tobacco**

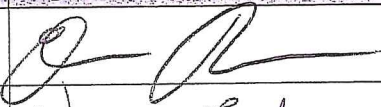

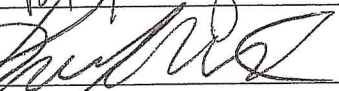
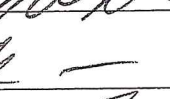

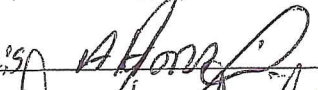
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Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to grant Shop N Save llc 2 the permit to obtain a Conditional Use Permit for Businesses Selling Wine, Liquor, Beer, and Tobacco

Printed Name	Signature	Address	Date
Charlene Jackson		1360 E 17 th St	1-14-2015
Jamian Wright		1922 Lincoln Ave.	1-14-2015
Curtis Farrell		2330 North Union St	1-14-2015
DJ Warren		1710 E. 13 th street	1-14-2015
Jennie Kigen		145 2nd St	1-14-2015
Leon Phillips		1372 Hutton St	1-14-2015
John Bull		1405 Richmond St	1-14-2015
Joe Thomas		1917 - Hallow	1-14-15
William Coarac		1336 E 13 th St	1-14-15
LaDucena Mbl		1810 York	1-14-15

Shop N' Save llc 2
1372 E.14th Street
Des Moines, Iowa 50316

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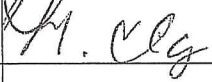
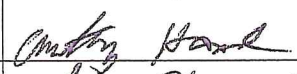


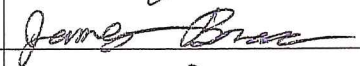


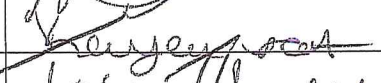
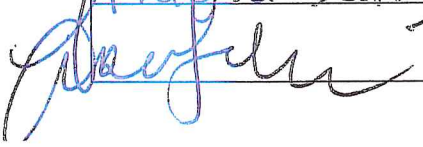

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Printed Name	Signature	Address	Date
Edward Perkins		1211 E 14 th St DSM, Iowa 50316	1-14-15
NANCY Johnson	Nancy Johnson	1227 DIXON ST 50316	1-14-15
Latoshia Robinson	Latoshia Robinson	309 Villa Vista Dr 50316	1-14-15
Betty Conley		1508 DIXON ST 50316	1-14-15
Karol M... ..		4424 SE 8 th St	1-14-15
Melissa		1616 E 15 St	1-14-15
FREDDIE HINTON		501 E Dunham	1-14-15
Monica Newman	Monica Newman	1525 E. 13 th St DM, Ia	1-14-15
Adolphus Harris		1100 Buchanan St	1-14-15
Demetra Smith	Demetra Smith	1369 Idaho St	1-14-15

Shop N' Save llc 2
1372 E.14th Street
Des Moines, Iowa 50316

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Printed Name	Signature	Address	Date
R. Benson		2002 Evergreen	1-14-14
M. Cley		McCormick St	1-14-2014
Anthony Hood		1358 E 15th st	1-14
CANZ HARVELL		1821 York st.	1/14/15
Robert [unclear]		700 Apt #2	1/14/15
James Brown		1219 Filmore St	1-14-15
Denny Pitts		3259 East 14 th	1-14-15
Nicole Knutson		1356 13 th St Apt 2 Des Moines IA	1-14-15
Kaglin Scott		910 Herold Street	1-14-15
		1456 E 18th	1-14-15

**Shop N' Save llc 2
1372 E.14th Street
Des Moines, Iowa 50316**

**Petition to obtain a Conditional Use Permit for Businesses Selling Wine,
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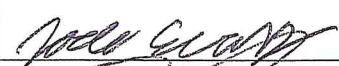
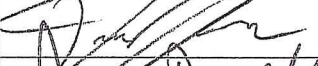



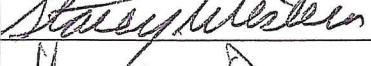
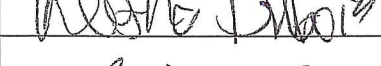


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Printed Name	Signature	Address	Date
EVERETT DUPLOIN	<i>Everett Duploin</i>	1501 Dewolf	1-14-15
Seaira Minor	<i>Seaira Minor</i>	2419 E 14th	1-14-15
Chedda M	<i>Chedda M</i>	1411 Hutton	1-14-15
Bonnie Sanders	<i>Bonnie Sanders</i>	700 East 5 th st apt 315	1-15-2015
Lirea Ary	<i>Lirea Ary</i>	1210 Veda	1-14-15
Elizabeth Feldman	<i>Elizabeth Feldman</i>	1221 21st Street, DSM, IA, 50311	01/14/15
James Johnson	<i>James Johnson</i>	3631 31st street DSM, IA	01-14-15
Maurice Anderson	<i>Maurice Anderson</i>	1800 E. 13 th St.	1-14-15
Beazar Saldaña	<i>Beazar Saldaña</i>	2737 Capitol Ave	1-14-15
Clintsey Simon	<i>Clintsey Simon</i>	1007 Morton AV.	1/14/15

Shop N' Save Ilc 2
1372 E.14th Street
Des Moines, Iowa 50316

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Printed Name	Signature	Address	Date
Tom Gordon		1361 York	1-14-15
Jobe Evans		1528 Stewart St	1-14-15
DeVughn Jenkins		1340 E 15 th s	1-14-15
Tara Powell		1636 Hull Ave #	1-14-15
Darius Doyle		1427 Cleveland	1-14-15
Stacey Western		1410 E. 9 th St Apt #9	1-14-15
Stacey Western		1913 E 13 St	1-14-15
Hesha Dubois		22 nd SE th St	1-14-15
Arthur Jorku		1710 Green	1-14-15
Lakez B		1516 Jefferson	1-14-15

**Shop N' Save llc 2
1372 E.14th Street
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Printed Name	Signature	Address	Date
RICHARD LENIHAN	<i>Richard Lenihan</i>	1464 E 14 th #1 DM IA	1-14-15
Dave Shumpp	<i>Dave Shumpp</i>	1418 E 17 th St	1-14-15
James McAlister	<i>James McAlister</i>	820 Lyon St	1-14-15
Jon Hill	<i>Jon Hill</i>	2110 King	1-14-15
Skateboard white	<i>Skateboard white</i>	2112 E 12 th St	1-14-15
Josh Norney	<i>Josh Norney</i>	1359 E 12 th St	
Adam Payne	<i>Adam Payne</i>	1010 Osceola Ave DM	1-14-15
Shawna Burkett	<i>Shawna Burkett</i>	1434 E 17 th	1-14-15
Brandon	<i>Brandon</i>	4020 Hubbell Ave 208	1-14-15
Josh Zura	<i>Josh Zura</i>	1415 E 14 th St	1-14-15

**Shop N' Save llc 2
1372 E.14th Street
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Printed Name	Signature	Address	Date
Crystal McElloagh	Crystal McElloagh	3123 Bowdoin	1-14-15
KAREN ROBINSON	Karen Robinson	1432 Hull Ave	1-14-15
James Robinson	James Robinson	1335 York	1-14-15
Darnell Wright	Darnell Wright	1764 SE 14th	1-14-15
Amber McDonald	Amber McDonald	701 Hull Ave	1-14-15
Mimi Saly	Mimi Saly	1116 Evergreen	1-14-15
Chris Anderson	Chris Anderson	1536 Royer St 50316	1-14-15
Hunt	Hunt		1-14-15
Cornell Williams	Cornell Williams		
Bac	Bac	1365 E 13th	1-14-15

**Shop N' Save llc 2
1372 E.14th Street
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**Petition to obtain a Conditional Use Permit for Businesses Selling Wine,
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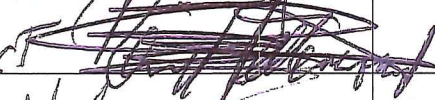

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Printed Name	Signature	Address	Date
Juanita Duplantier	<i>Juanita Duplantier</i>	1437 Dewolf Ism	1-14-15
Johnysa Williams	<i>Johnysa Williams</i>	1644 Hull Ave DM	1-14-15
William Lockridge	<i>William Lockridge</i>	1316 York Dr	1-14-15
ym capl	<i>ym capl</i>	1503 E. 14 th	1-14-15
maggie Johnson	<i>Maggie Johnson</i>	222 Capital	1-14-15
Gustavo Morales	<i>Gustavo Morales</i>	2221 ^E Capital	1-14-15
Jose Montoya	<i>Jose Montoya</i>	1605 Buchanan St	1-14-15
Chris Lauer	<i>Chris Lauer</i>	1325 1/2 E. 13 th st.	1-14-15
Joe Lomoti	<i>Joe Lomoti</i>	1640 Hull Ave	1/14/15
Mounce Lubaki	<i>Mounce Lubaki</i>	1640 Hull Ave	1/14/15

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Printed Name	Signature	Address	Date
Jonathan Logan		1312 22nd St	1-14-15
Sherrade Miller		1362 22nd St	1-14-15
Tyuan Butts	Tyuan Butts	1360 York	1-14-15
Puck Vandenberg	Puck Vandenberg	3210 E 13th	1-14-15
David D. Wilkerson, 13		1352 E 14th	1-14-15
Mario		1356 Elm St	1-14-15
Pedro			
Pedro		1221 E 12th	1-14-15
ROY T. Walls	ROY T. Walls	1360 E 14th	1-14-15
Belinda S	Belinda S	1224 E 15th	1-14-15

**Shop N' Save llc 2
1372 E.14th Street
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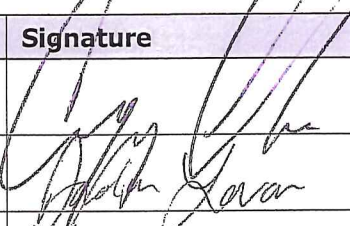
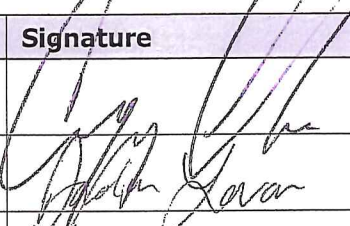

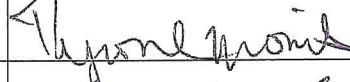

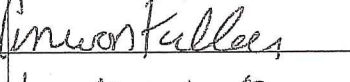
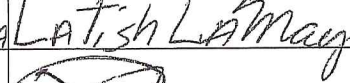



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Printed Name	Signature	Address	Date
DeMara Wilson		1605 212 E 12th St	1/24/15
Leroy Stumpert		508 DES MOINES 508 ST	1-14-15
Shelia Weston		1434 Alpha Ave	1-14-2015
Ogden Jim		1340 Cleveland Ave	1-14-2015
		2237 Maple St	1-14-2015
William Beck		1609 York	1-14-2015
Amanda Bruneven		514 Trumbull St #205	1-14-2015
Elcider		515 York St - DSM	1-14-2015
Corey Hamilton		1427 Stewart	1-14-15 1-14-15
Randy Trumbo		2310 E 9th	1-14-15

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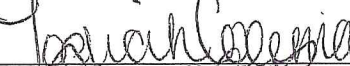
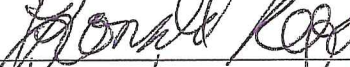
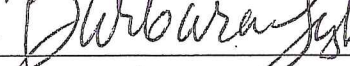





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Printed Name	Signature	Address	Date
Capraey Canada		1441 6 th Ave DSM, IA	1/14/2014
Jordan Egan		1614 E 13 th St.	1/14/2015
Kristine nait		1410 Cleveland Ave	1/14/15
Tyrone merrie		1410 Cleveland Ave	1/14/15
48RAY HERRID		3101 7 th Vicksburg St	1-14-15
Amwon Fuller		1521 E 17 Ct	1-14-15
LATISHA LATISHA		1521 E 17 Ct	1-14-15
BEBEE		1458 wisca	1-14-15
Goshko S.		810 E. 21 st Ct.	1/14/15
Angela Allen		3211 20 th St Apt 19A	1-14-15

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Liquor, Beer, and Tobacco**

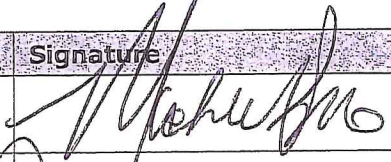
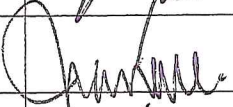

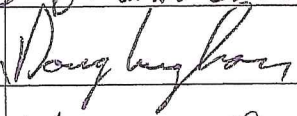
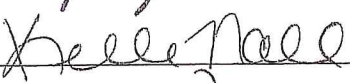
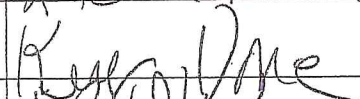

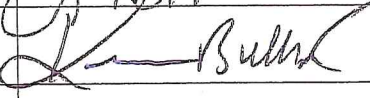


Petition summary and background	This is a petition on behalf of Shop N Save llc 2, requesting signatures from citizens residing in the capitol east neighborhood to obtain a conditional use permit from the Zoning Board of Adjustments in order to comply with new state law regarding the sale of liquor, beer, wine and tobacco, where the store revenue of said products will exceed 40% of the total sales
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to grant Shop N Save llc 2 the permit to obtain a Conditional Use Permit for Businesses Selling Wine, Liquor, Beer, and Tobacco

Printed Name	Signature	Address	Date
Tedyanna Frakes		1001 E Jefferson Ave	1/13/15
Becky G		309 SE St.	7/13/15
Torian Coleman		1526 E 116 St	1/13/15
Ron Reed		1519 Reynolds	1/13/15
BARB LYUE		2350 E. 13 th	1/14/15
Jim Wright		704 Taylor St.	1/14/15
Salim Ayoub		5305 WANA #22	1/14/15
Renee Santos		1804 E. 14 th St	1/14/15
Rico Kemp		160 Washington Ave	1/14/15
Henry Hernandez		1020 9 th St	1-14-15

Shop N' Save llc 2
1372 E.14th Street
Des Moines, Iowa 50316

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Printed Name	Signature	Address	Date
Machette		1820 Sangamon st	1/14/2015
Jimmie		1337 E 15 th	1/14/2015
Sharon Moran		2322 E. 12 th	1/14/15
Doug Cunningham		1916 York	1/14/15
Helli nail		1410 Cleveland ave	1/14/15
Kurtz Doris		1346 O'Hara	1-14-15
Larissa N		1325 E 12 th St.	1-14-15 1/13/15
Kevin Bullock		1104 Guthrie Ave	1-14-15
Rodger Garth		1315 E 9 th St Apt 1	1-14-15
Matt Isenhour		2910 Arnold Road #23	1-14-15

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Printed Name	Signature	Address	Date
Nick Jelen	Nick Jelen	1346 Guthrie	1-14-15
James A. Edwards	James A. Edwards	1372 Hutton	1-14-15
Kenzie Nunn	Kenzie Nunn	1528 E 16 th	1-14-15
Ted Panich	Ted Panich	1601 Backhach	1-14-15
Rochelle Helle	Rochelle Helle	142 E. Douglas Ave.	1/14/15
Felicia Johnson	Felicia Johnson	1100 e 16 th st	1-14-15
Ericka Reppner	Ericka Reppner	1520 East	1-14-15
Fidelis Wadigbo	Fidelis Wadigbo	1369 E 13 th	1-14-15
Selen Hall	Selen Hall	1605 1/2 E 12 th	1-14-15
Jermale Wadley	Jermale Wadley	1207 E 11 th	1-14-15

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Printed Name	Signature	Address	Date
Christina Selby		2103 E 12 th St	1/14/15
Jim Dake		1423 E Cleveland	1/14/15
Brandon Pinta		1613 York St	1/14/15
Junior Clark		1361 E. 18 th St.	1-14-15
JOSUE C.		1415 E. 19 St.	1/14-15
Elijah Sandoval		1501 E. ST 13 th	1/14-15
Will POK		1415 E 14 St 50316	1/14/15
GERALD JOHNSON		835 E WASH. 50316	1/14/15
Rob Butts		1364 Mutton 50316	1/14/15
Randy		1410 E 9 St	1/14/15