



Date September 14, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM EPC, LLC TO REZONE PROPERTY LOCATED AT 905 WALKER STREET FROM "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO "R-2" TWO FAMILY RESIDENTIAL DISTRICT**

**WHEREAS**, on August 24, 2015, by Roll Call No. 15-1432, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 6, 2015, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from EPC, LLC (owner), represented by Brad Lowe (officer), to rezone property located at 905 Walker Street ("Property") from "R1-60" One-Family Low-Density Residential District to "R-2" Two Family Residential District to allow occupancy of the existing dwelling as a two-family dwelling; and

**WHEREAS**, on August 24, 2015, by Roll Call No. 15-1432, it was duly resolved by the City Council that the application of EPC, LLC (owner) to rezone the Property, as legally described below, be set down for hearing on September 14, 2015 at 5:00 p.m. in the Council Chambers at City Hall; 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 amendment to the Zoning Ordinance; 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; and

**WHEREAS**, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property located at 905 Walker Street, legally described as:

Lot 16 in Block 2 in STEWART'S ADDITION to the City of Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "R1-60" One-Family Low-Density Residential District to "R-2" Two Family Residential District to allow occupancy of the existing dwelling as a two-family dwelling.

**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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to "R-2" Two Family Residential District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to "R-2" Two Family Residential District is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.



Roll Call Number

Agenda Item Number

59B

Date September 14, 2015

-2-

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

*Glenna K. Frank*

Glenna K. Frank, Assistant City Attorney

(ZON2015-00129)

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



August 18, 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 August 6, 2015, the following action was taken regarding a request from EPC, LLC (owner) represented by Brad Lowe (officer) to rezone property located at 905 Walker Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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			
Sasha Kamper	X			
Brian Millard	X			
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens				X
Greg Wattier	X			

**APPROVAL** of Part A) that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of Low Density Residential, Part B) for approval of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation Low Density Residential to Low/Medium Density Residential, Part C) for approval of the requested rezoning from "R1-60" One-Family Low-Density Residential District to "R-2" Two Family Residential District to allow occupancy of the existing dwelling as a two-family dwelling for property at 905 Walker Street. (21-2015-4.14 & ZON2015-00129)

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of Low Density Residential.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation Low Density Residential to Low/Medium Density Residential.

Part C) Staff recommends approval of rezoning to "R-2" Two-Family Residential District subject to restoration of the building to its originally designed two-family configuration.

### Written Responses

- 0 In Favor
- 2 In Opposition

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone the subject property to allow the existing residential dwelling to be re-occupied as a two-family dwelling. The Zoning Enforcement Officer has determined that the property has lost legal non-conforming rights as a four unit multiple-family dwelling.
2. **Size of Site:** 7,500 square feet.
3. **Existing Zoning (site):** "R1-60" One-Family Low Density Residential District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The property contains an unoccupied residential dwelling which was originally built as a two-family dwelling circa 1900.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60", "GGP", & "FSO"; Use is vacant parcel.
  - South** – "R1-60", "GGP" & "FSO"; Use is off-street parking for multiple-family dwelling.
  - East** – "R1-60", "GGP", & "FSO"; Use is single-family dwelling.
  - West** – "R1-60", "GGP", & "FSO"; Use is single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located in a mixed-density residential area just north of the I-235 freeway. The area was originally developed primarily with one and two-family dwellings and some scattered commercial buildings and multiple-family dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Capitol Park Neighborhood. This neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on July 17, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on July 17, 2015 (20 days prior to the hearing) and July 27, 2015 (10 days prior to the hearing) to the Capitol Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on July 31, 2015.

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 Capitol Park Neighborhood Association notices were mailed to Chelsea Lepley, 1253 East 12<sup>th</sup> Street, Des Moines, IA 50316.

8. **Relevant Zoning History:** The City Council rezoned the subject property on May 15, 2000 by Ordinance No. 13,821. This was done as part of an overall down-zoning of the Capitol Park Neighborhood area from "R-3" to "R1-60".

On October 31, 2014 the Neighborhood Inspection Division documented that the property was vacant and needed to be secured. The property subsequently lost non-conforming rights for use as a four unit dwelling. The most recent rental certificate was issued for two units of four units in the dwelling on September 23, 2010. This certificate expired in 2013.

9. **2020 Community Character Land Use Plan Designation:** Low Density Residential.

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, and taking into consideration the criteria set forth in Chapter 18B 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. **2020 Community Character Plan:** The City Council along with the Capitol Park Neighborhood worked to downzone the neighborhood from "R-3" to "R1-60" in 2000. The was in an effort reduce densities in the neighborhood as part of the implementation of the Capitol Park Neighborhood Plan which designated the future land use for the subject property to Low Density Residential a few years prior to the adoption of the Des Moines 2020 Community Character Plan in 2000.

At that time the subject property was one of many conversions in the neighborhood. It was configured as a four unit dwelling at that time from its original construction as a two-family dwelling. Since it was a four unit dwelling with substandard lot area and width it was included with the downzoning as it was already considered non-conforming in the

"R-3" District. Two-family dwellings which existed prior to 1996 were considered permitted uses in "R1-60".

The owner is seeking to return the dwelling to its original two-family configuration. Staff believes this is consistent with the intent of the Capitol Park Neighborhood Plan to prevent conversions and reduce densities. This would be within the character of the existing "R1-60" District which permitted two-family dwellings which existed prior to 1996. In this instance, the owner would still require appeals of the minimum lot area and width for a two-family dwelling in an "R-2" District. The future land use designation would have to be amended to Low/Medium Density residential to allow for the requested rezoning.

## **SUMMARY OF DISCUSSION**

Jonathan Rosenbloom asked about the nonconforming aspect of the site.

Mike Ludwig stated the structure was originally built as a duplex. At one point it was converted it to four units. The zoning code then changed to prohibit certain number of units per building. The owner lost conforming rights as a four unit building because it went vacant. Now the owner is proposing to take this building back to two units which was what the building was originally constructed for. Staff is recommending "R-2" district zoning because it is the only district in the City that currently allows a duplex.

Will Page stated this building is a very nice brick double house, which is a common duplex in the earlier 20<sup>th</sup> century, so it is an appropriate function historically for the neighborhood.

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

## **COMMISSION ACTION:**

Greg Wattier moved staff recommendation Part A) that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of Low Density Residential, Part B) for approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation Low Density Residential to Low/Medium Density Residential, and Part C approval of rezoning to "R-2" Two-Family Residential District subject to restoration of the building to its originally designed two-family configuration.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

EPC, LLC (owner) represented by Brad Lowe (officer) for property located at 905 Walker Street.			File #	
			21-2015-4.14	
<b>Description of Action</b>	Approval of request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low-Density Residential to Low/Medium-Density Residential.			
<b>2020 Community Character Plan</b>	Current: Low Density Residential. Proposed: Low/Medium Density Residential.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay District.			
<b>Proposed Zoning District</b>	"R-2" Two-Family Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area		2		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

EPC, LLC, 905 Walker Street

21-2015-4.14



Updated on: 7/16/2015

1 inch = 92 feet

EPC, LLC (owner) represented by Brad Lowe (officer) for property located at 905 Walker Street.		File # ZON2015-00129		
<b>Description of Action</b>	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District to "R-2" Two Family Residential District to allow occupancy of the existing dwelling as a two-family dwelling subject to restoration of the building to its originally designed two-family configuration.			
<b>2020 Community Character Plan</b>	Current: Low Density Residential. Proposed: Low/Medium Density Residential.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay District.			
<b>Proposed Zoning District</b>	"R-2" Two-Family Residential District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Sign Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area		2		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

EPC, LLC, 905 Walker Street

ZON2015-00129



1 inch = 92 feet



59B

Item ZON2015-00129

Date 7/28/2015

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

RECEIVED  
COMMUNITY DEVELOPMENT

(Circle One)

AUG 18 2015

Print Name ROBB SPURMAN

Signature *Robb Spurman*

DEPARTMENT

Address 915 E 9 St.

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

Single Family Neighborhood, conversion of SFR or build Duplex HURTS property values.

Item ZON2015-00129

Date 7-28-15

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

RECEIVED

COMMUNITY DEVELOPMENT

AUG 11 2015

Print Name Kent Lehs

Signature *Kent Lehs*

Address 1011 E 9th St.

DEPARTMENT

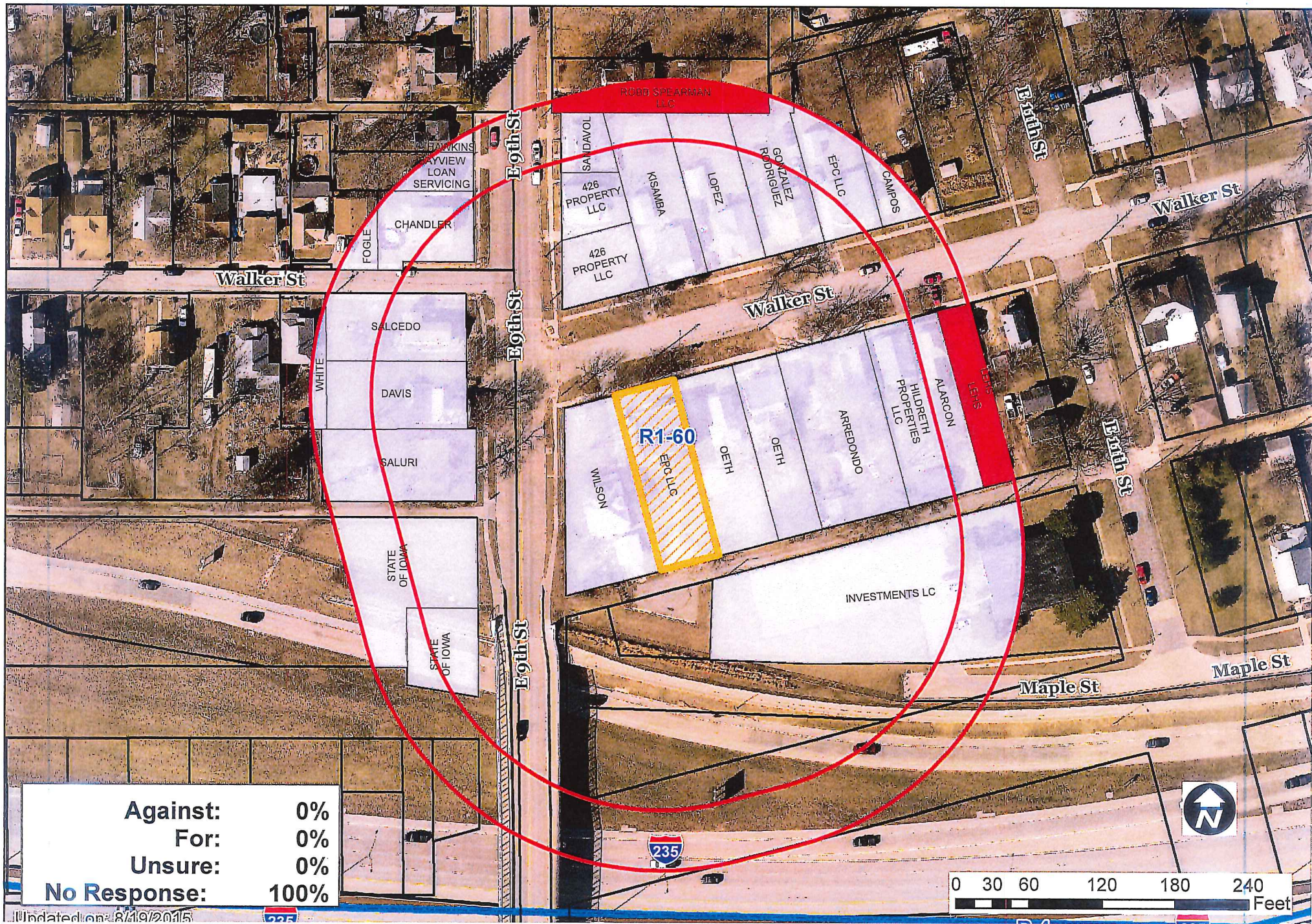
Reason for opposing or approving this request may be listed below:

I have turned several multi-plexes back into single family homes to help areas that are problematic because of too many people living on the block.

59B

EPC, LLC, 905 Walker Street

ZON2015-00129



Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 8/19/2015

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