



Roll Call Number

Agenda Item Number

61A

Date September 26, 2016

**RESOLUTION ON REQUEST FROM ENRIQUE AND OSCAR ZENTENO TO AMEND THE
PLANDSM: CREATING OUR TOMORROW PLAN FUTURE LAND USE DESIGNATION
(2348 AND 2354 EAST GRAND AVENUE)**

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan; and

WHEREAS, on September 12, 2016, by Roll Call No. 16-1517, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held September 1, 2016, its members voted 8-0 to recommend **DENIAL** of a request from Enrique and Oscar Zenteno (owners) to amend the PlanDSM: Creating Our Tomorrow Plan future land use designation for real property locally known as 2348 and 2354 East Grand Avenue from Low Density Residential to Neighborhood Mixed Use.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the PlanDSM: Creating Our Tomorrow Plan, as described above, is hereby **approved / denied**.

MOVED by _____ to adopt and **APPROVE / DENY** the proposed amendment.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(21-2016-4.09)

NOTE: Six affirmative votes are required to approve the proposed amendment due to the Commission's recommendation for denial. Des Moines City Code §82-78.

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

MOTION CARRIED

APPROVED

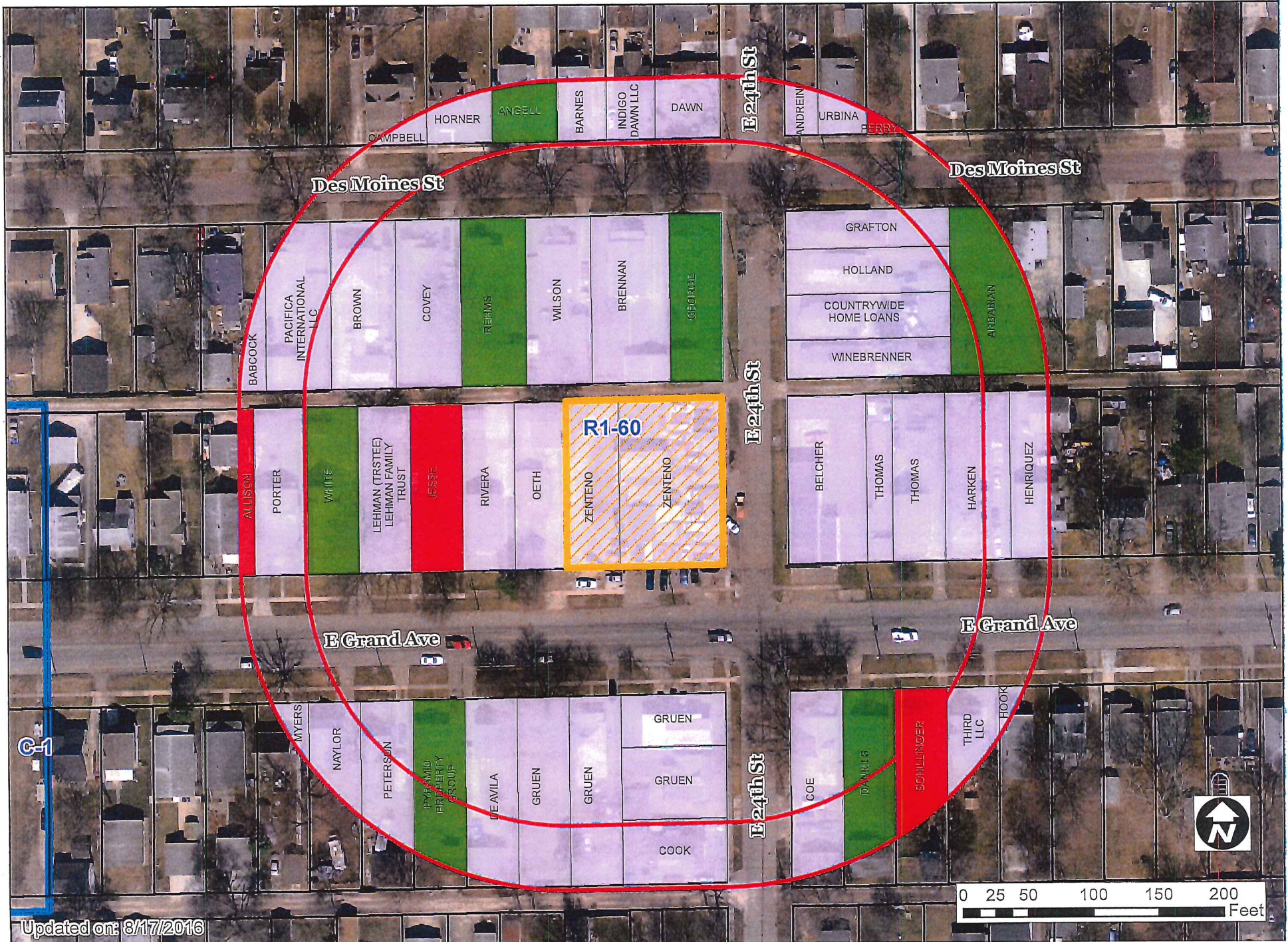
Mayor

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



61A

61A



September 8, 2016

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 September 1, 2016, the following action was taken regarding a request from Enrique and Oscar Zenteno (owners) to rezone property located at 2348 and 2354 East Grand Avenue from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented District, to allow for legal non-conforming auto repair business to be brought into conformance.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles				X
JoAnne Corigliano				X
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes				X
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson				X
Rocky Sposato	X			
CJ Stephens				X
Steve Wallace	X			
Greg Wattier				X

APPROVAL of staff recommendation Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density



Residential rezoning the property to “C-2” General Retail and Light Industrial District, Part B) **denial** of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Neighborhood Mixed Use and Part C) **denial** of rezoning the property to “C-2” General Retail and Light Industrial District. (21-2016-4.09 & ZON2016-00120)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Staff recommends denial of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends denial of rezoning the property to “C-2” General Retail and Light Industrial District.

Written Responses

7 In Favor

4 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to allow an illegal expansion of a previously legal non-conforming garage for general motor vehicle repair (d/b/a EZ Llantera Tire Shop) into property located at 2348 East Grand Avenue. The property at 2354 East Grand Avenue lost legal non-conforming rights at a point in time when the business activities extended into additional residentially zoned property to the west.
2. **Size of Site:** 120-foot by 130-foot (15,600 square feet).
3. **Existing Zoning (site):** “R1-60” One-Family Low-Density Residential District and “FSO” Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The property known as 2354 East Grand Avenue includes a one-story 2,434-square foot repair garage and paved aprons. The property known as 2348 East Grand Avenue is unimproved but has evidence of vehicular circulation and storage.
5. **Adjacent Land Use and Zoning:**
 - East** - “R1-60”; Uses are fire damaged, vacant commercial building and single-family dwellings.
 - West** - “R1-60”; Uses are single-family dwellings.
 - North** - “R1-60”; Uses are single-family dwellings.

South - "R1-60"; Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located in an area that is developed primarily with single-family residential use with scattered, older commercial structures.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Fairground Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on July 1, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on July 1, 2016 (20 days prior to the August 4th hearing) and July 11, 2016 (10 days prior to the August 4th hearing) 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 15, 2015 and on August 12, 2016.

The Fairground Neighborhood Association mailings were sent to Sharon Cooper, 2838 Logan Avenue, Des Moines, IA 50317.

The applicant held their neighborhood meeting on July 26, 2016. A summary of the neighborhood meeting will be provided at the hearing.

8. **Relevant Zoning History:** N/A.
9. **PlanDSM 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. **PlanDSM Creating Our Tomorrow:** The future land use designation for the property is currently Low Density Residential, which is defined as areas developed primarily with a single-family and two-family residential units up to 6 units per net acre. The proposed rezoning would require an amendment to the Neighborhood Mixed Use designation. This designation accommodates small scale mixed use development typically located at the intersections of collector and arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service-oriented development. Development in this classification could have a large impact on adjoining low density residential properties and the environment which would need to be mitigated.

The proposed Neighborhood Mixed Use designation would be surrounded by remaining Low Density Residential designation. While there are other existing commercially zoned properties within a few blocks, the PlanDSM designates this area for Low Density Residential. The Plan does not contemplate adding additional commercial use or development in the immediate area. Therefore, staff does not believe that either the proposed amendment to the PlanDSM future land use designation or the proposed rezoning to an "C-2" General Retail and Highway-Oriented Commercial District are appropriate given the recent adoption of PlanDSM.

- 2. Additional Information:** The subject property has an enforcement history dating back to 2002 that includes violations such as storage of inoperable vehicles, storage of junk/debris vehicle parking and storage on unpaved surfaces or on adjoining Right-Of-Way. There have also been several impounds of vehicles from the property in that time. In 2015, the City initiated legal proceedings against the property. This process is still pending awaiting further filings. The applicant has sought the remedy to rezone in the interim. Should the property be rezoned for allowance of the vehicle repair shop use, the illegal expansion has already triggered the subsequent need for Site Plan compliance for the entire site with the Permit and Development Center.

If the Commission is to recommend approval of the requested comprehensive plan amendment and rezoning, staff recommends that it be made subject to the following:

- 1. Any Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to "C-2" Districts, including landscaping and paving requirements, within one year of the approval of the rezoning.*
- 2. Any buildings on site shall be kept in good repair to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.*
- 3. There shall not be storage of more than two (2) unlicensed or inoperable vehicles outside of a building.*
- 4. No unlicensed or inoperable vehicles or vehicles awaiting repair associated with any business on the property shall be parked or stored on the surrounding public street network.*
- 5. Only the following uses as in "C-2" District shall be permitted:*
 - a) Automobile washing and detailing establishments.*
 - b) Carpenter and Cabinetmaking shops for retail custom work*
 - c) Garage for general motor vehicle repair, but not including body and fender work and overall painting and steam cleaning.*
 - d) Plumbing and Heating shops*
 - e) Printing and Lithographing shops*
 - f) Sheetmetal shops*

6. In addition, uses as in the "C-1" District shall be permitted, except the following uses shall be prohibited:
- a) Assembly uses
 - b) Bakeries
 - c) Boarding houses and rooming houses
 - d) Colleges and universities
 - e) Correctional placement residences
 - f) Dance studios
 - g) Delicatessens
 - h) Department stores with more than 30,000 square feet of gross floor area
 - i) Gas stations/convenience stores
 - j) Multiple-family residential dwellings
 - k) Nursing, convalescent, and retirement homes
 - l) Radio stations
 - m) Restaurants
 - n) Shelters for the homeless
 - o) Theaters

SUMMARY OF DISCUSSION

Jason Van Essen explained the attempt to rezone as requested must be denied by City Council prior to going to Board of Adjustment for a use variance.

The applicant was not present.

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

David Courard-Hauri moved to table this item to the end of the meeting to allow applicant time to arrive. Motion 8-0.

Greg Jones revisited agenda item at 8:09 pm

David Courard- made motion to reopen agenda item. Motion to reopen the hearing approved 8-0.

The applicant was still not present.

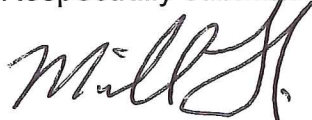
COMMISSION ACTION:

David Courard-Hauri moved staff recommendation Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low

Density Residential, denial of Part B) the requested amendment to the PlanDSM future land use designation from Low Density Residential to Neighborhood Mixed Use and denial of Part C) rezoning the property to "C-2" General Retail and Light Industrial District.

Motion carried 8-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Enrique and Oscar Zenteno (owners) for property located at 2348 and 2354 East Grand Avenue.

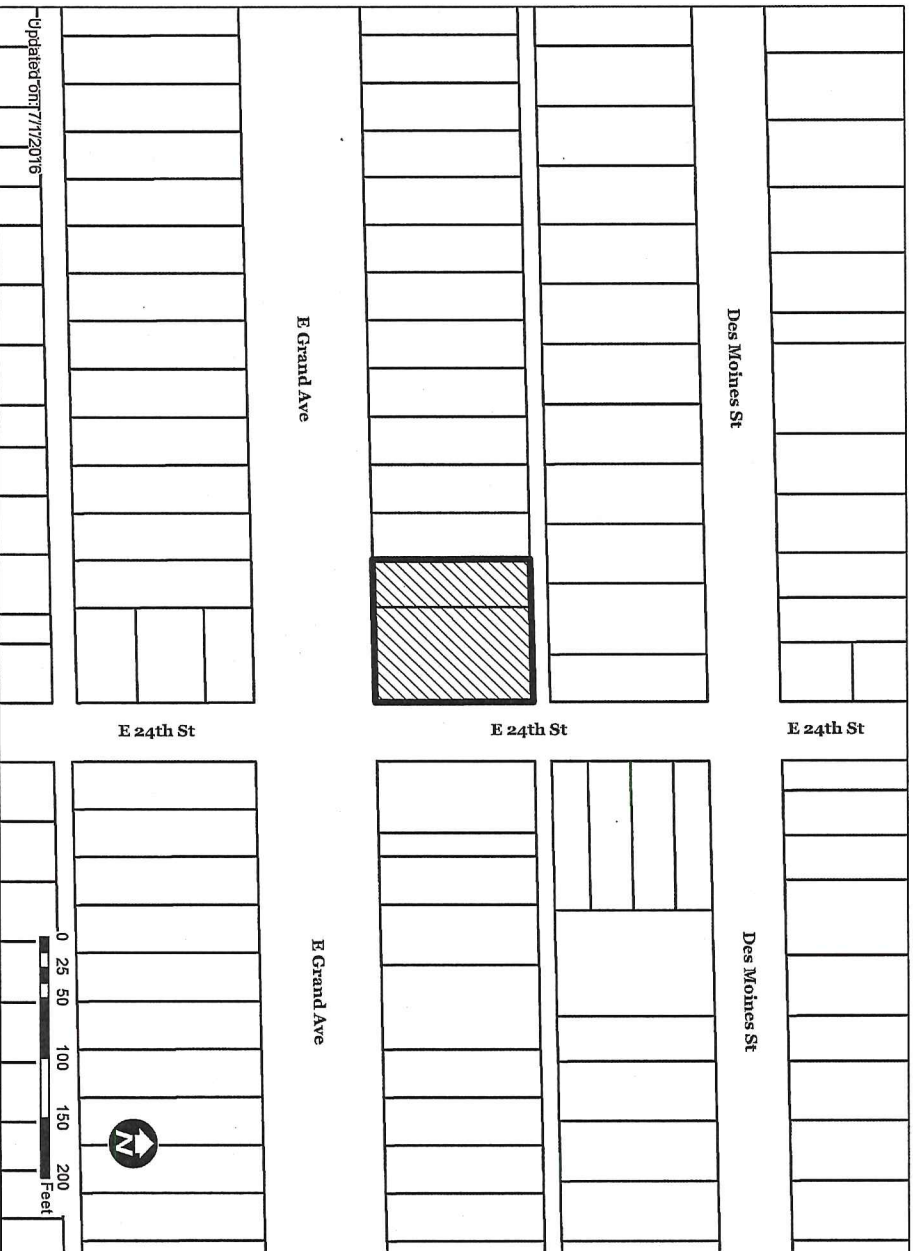
File #

21-2016-4.09

Description of Action	Denial of request to amend the PlanDSM Creating Our Tomorrow to revise the existing future land use designation from Low Density Residential to Neighborhood Mixed Use.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Neighborhood Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	Inside Area	In Favor 7	Not In Favor 4	Undetermined	% Opposition
	Outside Area				
Plan and Zoning Commission Action	Approval			Required 6/7 Vote of the City Council	
	Denial	8-0		Yes	X
				No	

Zenteno, 2348 and 2354 East Grand Avenue

21-2016-4.09



Updated on 7/17/2016

1 Inch = 96 feet

Enrique and Oscar Zenteno (owners) for property located at 2348 and 2354 East Grand Avenue.

File #
ZON2016-00120

Description of Action Denial of request to rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented District, to allow for legal non-conforming auto repair business to be brought into conformance.

PlanDSM Future Land Use Current: Low Density Residential.
Proposed: Neighborhood Mixed Use.

Mobilizing Tomorrow Transportation Plan No planned improvements.

Current Zoning District "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.

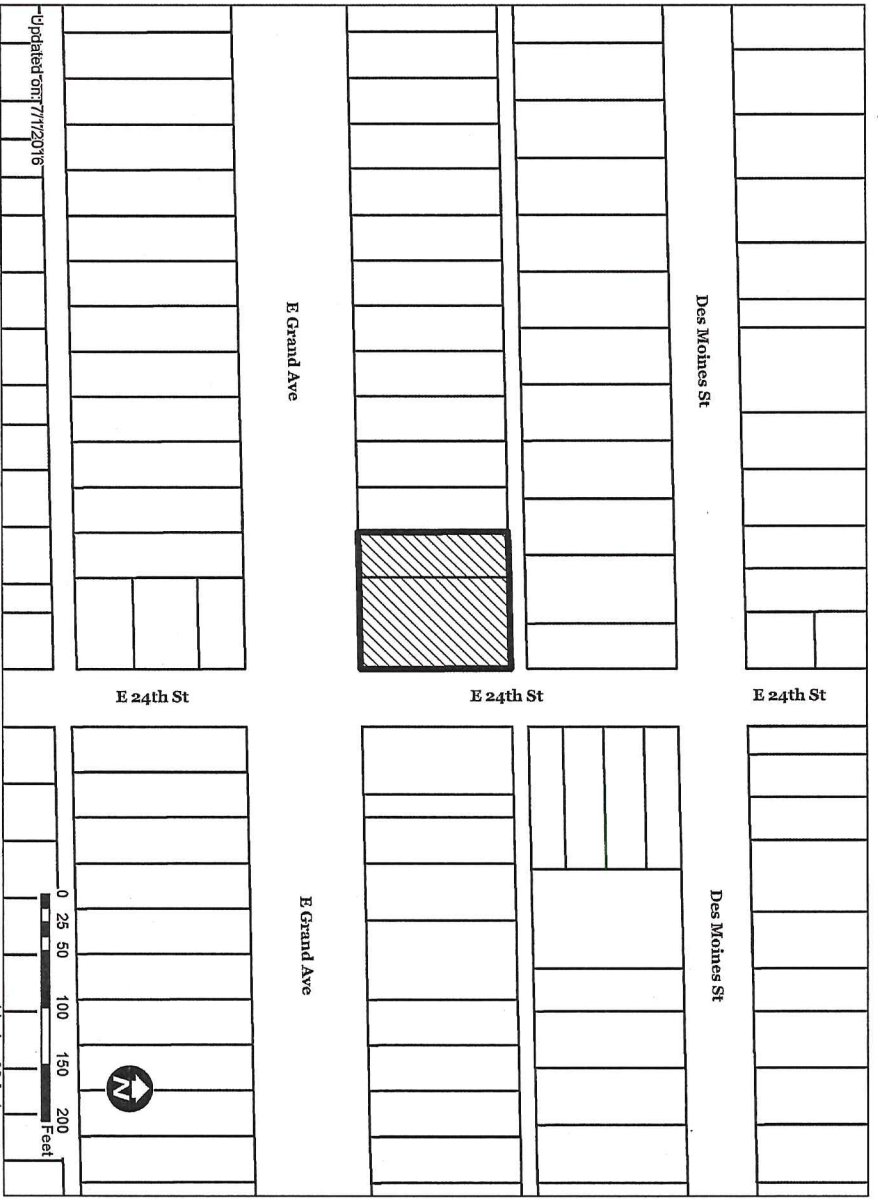
Proposed Zoning District "C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District.

Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	7	4		
Outside Area				

Plan and Zoning Commission Action	Approval	Required 6/7 Vote of the City Council	Yes	X
	Denial		8-0	No

Zenteno, 2348 and 2354 East Grand Avenue

ZON2016-00120



ZON2016-00120

Item

Date 7/15/2016

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Stephen

Signature Rehm S

JUL 18 2016

Address 2333 Des Moines St.

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

ZON2016-00120

Item

Date 7-18-16

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Caleb Fritzer Manager

Signature [Signature]

JUL 21 2016

Address 2337 E Grand

DEPARTMENT

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

ZON2016-00120

Item

Date

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name

JUL 21 2016

Signature

DEPARTMENT

Address

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

Date 7-18-16
Not within 250 feet
Print Name Caleb Fritzer
Signature [Signature]
Address 2618 E Grand

ZON2016-00120

Item _____ Date 7-14-16

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name GARY ANGELL

Signature [Signature]

JUL 19 2016

Address 2336 D.M. St D.M. La.

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

ZON2016-00120

Date 7-15-2016

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name

RAYMOND P. WHITE

Signature

[Signature]

JUL 19 2016

Address 2330 E GRAND AVE

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

Since the house that was originally
at 2348 E. Grand was razed years ago,
hopefully this will be an incentive to
improve the property. It can be a huge
mud hole after winter snow melts.

ZON2016-00120

Item _____ Date July 13, 2016

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Lois Daniels

Signature [Signature]

JUL 19 2016

Address 2403 East Grand Ave.

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

I approve because it will be better as
a business then set empty and having
vandals tearing up things or broken windows
I live across the street & they haven't bothered
me with noise & etc. They tried to fix up the
the lived in neighborhood for 59 years. place.

ZON2016-00120

Item _____ Date 7-14-16
I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

JUL 18 2016

DEPARTMENT

Print Name William W. Allison
Signature *William Allison*
Address 2322 E. Grand Ave

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

- ① Place is always messy ② discarded tires are carried away and left in alley way.
- ③ cars are at times parked over side-walks and close to alley ④ residential neighborhood - we don't want businesses.

ZON2016-00120

Item Zon 2016-00120 Date 7-16-2016
I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

JUL 20 2016

DEPARTMENT

Print Name Linda Williams
Signature *Linda George Williams*
Address 2411 Des Moines St.

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

Has Always Been Commercial Business. Has been a good neighbor.

ZON2016-00120

7-13-16

Item _____ Date _____
I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

JUL 18 2016

DEPARTMENT

Print Name Lorna Cepley
Signature *Lorna Cepley*
Address 2415 Des Moines St

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

they has always been a business on that corner any way. Both corners NE & NW corners of 24th & Grand.

ZON2016-00120

Item _____ Date 7-23-16

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name DARLENE JESSE

Signature Darlene Jesse

Address 2621 E SHERIDAN

AUG 02 2016

DEPARTMENT

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

THIS PROPERTY ALREADY LOOKS LIKE A
JUNK YARD. CARS ARE PARKED IN THE
STREET AND SO MANY OF THE CARS
DONT HAVE LICENSE PLATES AND THE TOW
TRUCKS BLOCK FROM BEING ABLE TO SEE
THE TRAFFIC COMING DOWN THE STREET.

ZON2016-00120

Item _____ Date 7.13.16

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

*Received after P&Z meeting
Schellinger*

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Michelle Downey

Signature M. Downey

Address 2465 E. Grand Ave

JUL 26 2016

DEPARTMENT

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

When pulling up to 24th and
Grand, you can not see to get
across due to all vehicles. I think
additional zoning would only
endanger people trying to cross.

ZON2016-00120

Item _____

Date 7/13/16

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name DENNIS PERRY

Signature Dennis Perry

Address 3410 Des Moines St

JUL 13 2016

DEPARTMENT

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

To much traffic &
To much noise.