

.....  
Date November 6, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM GNY INVESTMENTS, LLC TO REZONE PROPERTY AT 1517 23<sup>RD</sup> STREET**

**WHEREAS**, on October 23, 2017, by Roll Call No. 17-1825, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 5, 2017, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from GNY Investments, LLC (owner), represented by Jenn Ho Go (officer), to rezone property at 1517 23<sup>rd</sup> Street ("Property") from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District, to allow the Property to be used for a four-unit multi-family dwelling; and

**WHEREAS**, on October 23, 2017, by Roll Call No. 17-1825, it was duly resolved by the City Council that the application of GNY Investments, LLC to rezone the Property, legally described as follows, be set down for hearing on November 6, 2017 at 5:00 p.m. in the Council Chamber at the Municipal Service Center:

Lots 12 and 13 in WILLIAMSON PLACE, an Official Plat, all 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 "R-3" Multiple-Family Residential District, to allow the Property to be used for a four-unit multi-family dwelling, 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 11-0 to recommend denial of the requested rezoning of the Property to "R-3" Multiple-Family Residential District, to allow the Property to be used for a four-unit multi-family dwelling.
- b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Low Density Residential, which is not in conformance with the proposed Medium Density Residential use of the Property as stated above.
- c. 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.

★ Roll Call Number

Agenda Item Number

43B

Date November 6, 2017

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**Alternative B**

MOVED by \_\_\_\_\_ to continue the public hearing until November 20, 2017, at 5:00 p.m. in the Council Chambers in the Municipal Service Center, 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.

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

FORM APPROVED:

*Glenna K. Frank*

Glenna K. Frank, Assistant City Attorney

(ZON2017-00141)

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

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

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Mayor

October 17, 2017

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their October 5, 2017 meeting, the following action was taken regarding a request from GNY Investments, LLC (owner) represented by Jenn Ho Go (officer) to rezone property at 1517 23<sup>rd</sup> Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier				X

**APPROVAL** of Part A) the proposed "R-3" Multiple-Family Residential District is not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Low Density Residential, **DENIAL** of Part B) the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential to Medium Density Residential and **DENIAL** of Part C) the proposed rezoning

of property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District. (21-2017-4.09 & ZON2017-00141)

### Written Responses

1 in Favor  
2 in Opposition

### **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the proposed "R-3" Multiple-Family Residential District is not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Low Density Residential.

Part B) Staff recommends denial of the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential to Medium Density Residential.

Part C) Staff recommends denial of the proposed rezoning of property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District.

### **STAFF REPORT TO THE PLANNING COMMISSION**

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to re-occupy the structure with four (4) dwelling units after being vacant since the most recent Housing Rental Certificate expired on May 2, 2016.
2. **Size of Site:** 80 feet by 143 feet (10,320 square feet or 0.24 acre).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The subject property contains a 3,132-square foot structure that was built as a single-family dwelling but was later converted to four (4) dwelling units.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60"; Use is single-family residential.
  - South** – "R1-60"; Use is single-family residential.
  - East** – "R1-60"; Use is single-family residential.
  - West** – "R1-60"; Use is single-family residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the east side of 23<sup>rd</sup> Street to the north of its intersection with Clark Street. The area generally consists of single-family dwellings.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on August 21, 2017. A Final Agenda was mailed to the neighborhood associations on September 1, 2017 and on September 29, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on August 18, 2017 (20 days prior to the September 7 hearing) and on August 28, 2017 (20 days prior to the September 7, 2017 hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association notices were mailed to Kristina Johnson, 3523 University Avenue, #12A, Des Moines, IA 50311.

The applicant held the required neighborhood meeting on September 10, 2017, and will be available to provide a summary at the hearing.

- 8. Relevant Zoning History:** N/A.

- 9. PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:** Low Density Residential.

- 10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

- 1. PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:** The subject property is designated as Low Density Residential, which is described as "areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre. The proposed four (4) dwelling units on a 0.24-acre parcel represents a net density of 16.67 units per acre. Therefore, the proposed "R-3" Multiple-Family Residential District would require the future land use designation to be revised to Medium Density Residential, which is described as "areas developed with a mix of single-family, two-family, and multi-family residential, up to 17 dwelling units per net acre."

Staff does not believe that this is an appropriate location for Medium Density Residential. This designation is typically located along corridors and/or transit routes, such as Forest Avenue, University Avenue, and Martin Luther King, Jr. Parkway. Therefore, Staff recommends denial of both the land use plan amendment and the rezoning.

2. **Site Plan Requirements:** Should the property be rezoned, any multiple-family residential use must be in compliance with a Site Plan under the design guidelines for multiple-family residential, as reviewed and approved by the Plan and Zoning Commission. This Site Plan must comply with all regulations, including those pertaining to landscaping and stormwater management.
3. **Access or Parking:** Should the property be rezoned, any multiple-family residential use must provide a minimum of 6 parking spaces for the proposed 4 dwelling units (1.5 spaces per dwelling unit), including one (1) ADA-compliant space. There is an existing paved area to the rear of the structure that may need to be modified to meet the requirements.
4. **“R-3” District Bulk Regulations:** The Zoning Ordinance requires the following to be provided for multiple-family development within the “R-3” District:
  - Minimum lot area of 10,000 square feet,
  - 2,500 square feet of lot area per dwelling unit,
  - 30-foot building setback from the front property line,
  - Building side yard setbacks totaling 17 feet with no less than 8 feet being provided on one side, and

The subject property measures 10,320 square feet and would comply with these bulk regulations if used for four (4) dwelling units.

5. **Multiple-Family Residential Design Guidelines:** The applicant would be required to submit a site plan and building elevations for review by the Plan and Zoning Commission in accordance with the City’s Multiple Family Residential Design Guidelines if the property is rezoned. In acting upon any application for multiple-family dwellings, boarding houses or rooming-houses, the Plan and Zoning Commission shall apply the design guidelines City Code Section 82-213, which are in consideration of the criteria set forth in Chapter 18B of the Iowa Code. The decision to approve, approve subject to conditions, or disapprove an application shall be based upon the conformance with the following design standards:
  - a) *Architectural character.* New developments and alterations to existing development in or adjacent to existing developed areas shall be compatible with the existing architectural character of such areas by using a compatible design. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development. Brick and stone masonry shall be considered compatible with wood framing and other materials.
  - b) *Building height and mass.* Buildings shall be either similar in size and height, or if larger, shall be articulated, setback or subdivided into massing that is proportional to the mass and scale of other structures on the same block and adjoining blocks. Articulation may be achieved through variation of roof lines,

setbacks, patterns of door and window placement, and the use of characteristic entry features. To the maximum extent feasible, the height, setback and width of new buildings and alterations to existing buildings should be similar to those of existing buildings on the same block. Taller buildings or portions of buildings should be located interior to the site. Buildings at the ends of blocks should be of similar height to buildings on the adjoining blocks.

- c) *Building orientation.* To the maximum extent feasible, primary facades and entries shall face the adjacent public street. A main entrance should face a connecting walkway with a direct pedestrian connection to the public street without requiring all pedestrians to walk through parking lots or across driveways.
- d) *Garage access/location.* If the prominent character of garage access and/or location is located to the rear of the properties in the surrounding neighborhood, then new construction should be compatible with such character.
- e) *Rooftop/second story additions.* A rooftop or second floor addition, including but not limited to stairs and emergency egress, should not overhang the front or sidewalls of the existing building.
- f) *Emergency egress.* All stairs and means of emergency egress extending more than 15 feet above grade and visible from the adjoining street should be completely enclosed with materials compatible in color and texture with the balance of the building.
- g) *Parking.* Parking lots containing more than eight parking spaces should comply with the adopted landscape standards applicable to commercial development in the C-1 district.

## SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

John "Jack" Hilmes asked if the storage building was part of the site.

Jason Van Essen stated yes, there are three storage buildings that are part of the site.

Jacqueline Easley asked if there were two entrances for the property.

Jason Van Essen stated there are a couple of doorways on the front of the structure.

Corrine Yap and Jen Ho stated this property is set up as a 4-plex with 2 units on the first and second level. Each unit has 2 bedrooms, 1 full bathroom, 1 kitchen, 1 living room and 2 exits per unit. Each unit is roughly 740 to 800 square feet with their own electric meters. The rental certificate wasn't maintained and the property sat vacant for more than 6 months. This property sits close to Drake University and housing is expensive for college students. Their target market is Drake students so they can offer them affordable housing. If this property is only allowed to have one dwelling unit, they believe not many people will be able to afford a rate of approximately one dollar per square foot. With each rental

property, they will repaint, add new fixtures in the kitchen and bathroom if needed and make sure the floors are in good condition.

Mike Simonson asked how long the applicant has owned this property.

Corrine Yap stated they bought the property in the summer of 2017.

JoAnne Corigliano asked if they presented their plan to the Drake Neighborhood Association.

Jen Ho stated they held a meeting at the site as requested. No one attended.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jennifer Sayers 1129 28<sup>th</sup> vice president of the Drake Neighborhood Association stated they have not heard from the applicant. She has visited the property personally and believes this can be rehabbed as a single-family home. The applicant's request does not fit into the Drake Neighborhood Plan.

Deric Gourd 2422 Drake Park stated they aren't opposed to density but would like the density to be smart and along the major transportation corridors. What we see with these types of properties, is owners taking every square foot they can to add living space, therefore being able to cram as many people in there as possible. He believes this property can be converted back into a single-family residence and would be a wonderful addition.

Corrine Yap stated she contacted Christina Johnson with the Drake Neighborhood Association and Ms. Johnson stated that she could not approve the plans because of the location of the property.

Jen Ho added there is off-street parking behind the property with enough stalls for each resident.

Jann Freed asked if they bought this property because it previously had four units.

Corrine Yap stated they would not have bought this property if it was only allowed to be a single-family use. This property was presented to them as a 4-plex.

John "Jack" Hilmes asked were they aware of the Drake Neighborhood plans at the time of purchase.

Corrine Yap stated they were not.

John "Jack" Hilmes asked if there was a realtor involved.

Corrine Yap stated no.

John "Jack: Hilmes asked if a lawyer was involved in the transaction.

Corrine Yap stated yes.



John "Jack" Hilmes asked if the attorney rendered a title opinion for them.

Corrine Yap stated yes.

John "Jack" Hilmes asked staff if the condition of a rental certificate was available to the public.

Mike Ludwig stated yes, through the Community Development Department, Neighborhood Inspection Division.

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

JoAnne Corigliano stated she couldn't support a 4-plex in that area. She believes a duplex might be better than a 4-plex, but believes a single-family dwelling would be the best use.

Carolyn Jenison stated the Drake Neighborhood has worked real hard to rezone and the Commission should support their efforts.

John "Jack" Hilmes stated its frustrating when incorrect information and professional advice are given. However, he will support the recommendation of the board.

### **COMMISSION ACTION:**

Carolyn Jenison moved staff recommendation Part A) to find the proposed "R-3" Multiple-Family Residential District is not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Low Density Residential, denial of Part B) the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential to Medium Density Residential and denial of Part C) the proposed rezoning of property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District.

Motion Passed: 11-0.

Respectfully submitted,



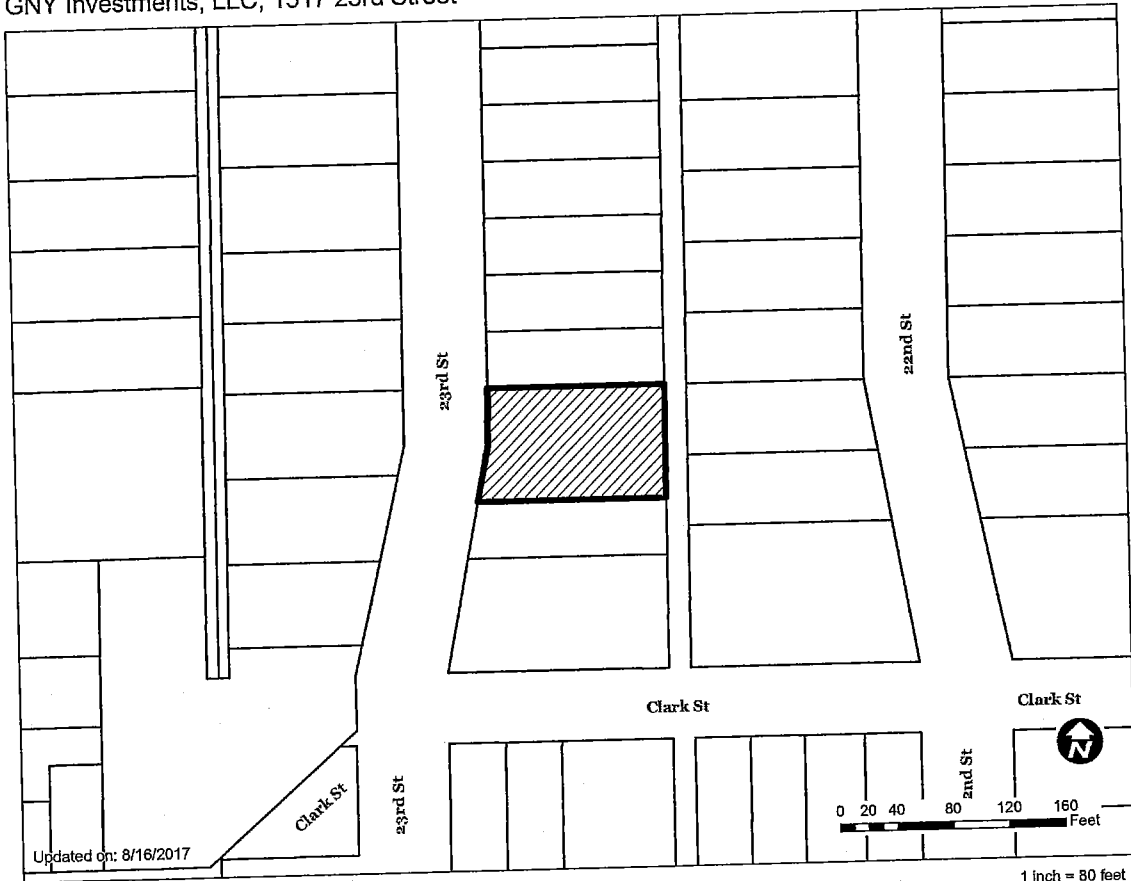
Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

GNY Investments, LLC (owner) represented by Jenn Ho Go (officer) for property at 1517 23rd Street.		File # ZON2017-00141			
Description of Action	Denial of the proposed rezoning of property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District, to allow for use of property for a four-unit multiple-family dwelling.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Medium Density Residential.				
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	"R-3" Multiple-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property					
Outside Area (200 feet)	1	2			
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	11-0		No	

GNY Investments, LLC, 1517 23rd Street

ZON2017-00141

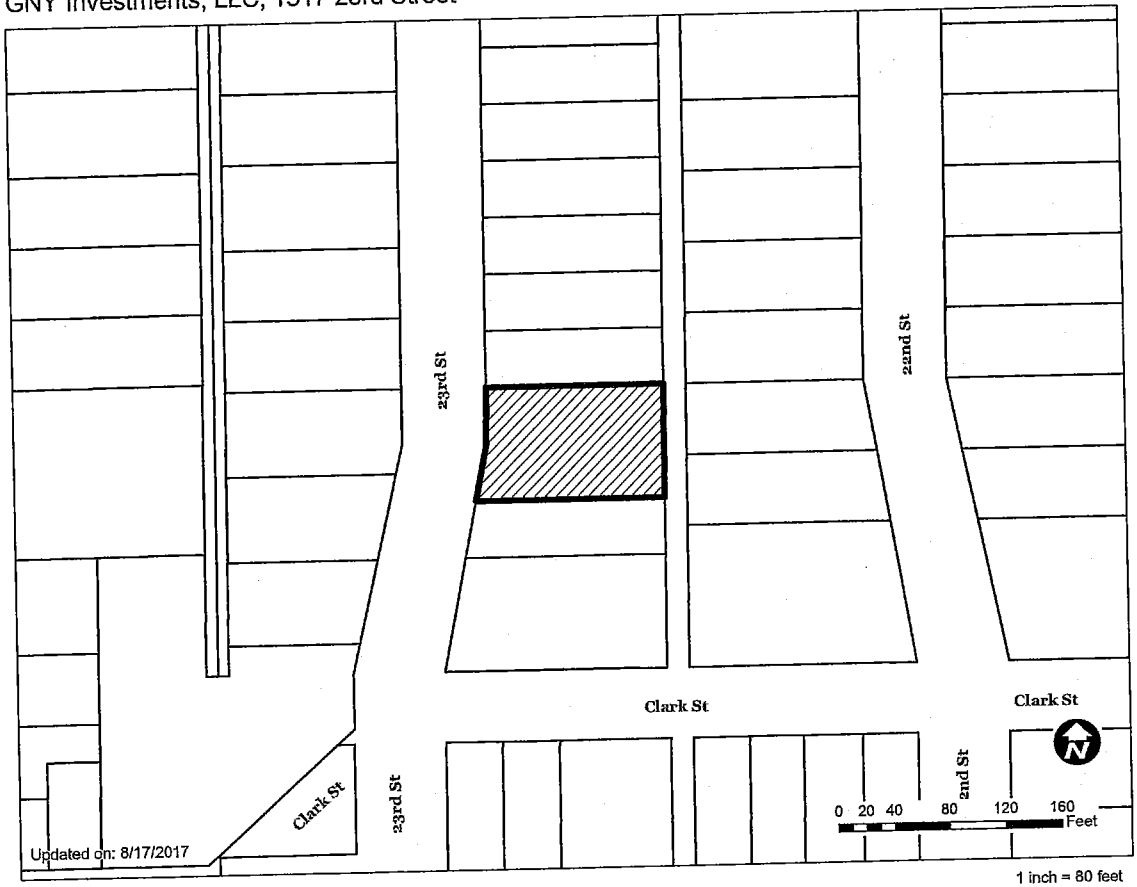


1 inch = 80 feet

GNY Investments, LLC (owner) represented by Jenn Ho Go (officer) for property at 1517 23rd Street.				File # 21-2017-4.09	
Description of Action	Denial of the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential to Medium Density Residential.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Medium Density Residential.				
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	"R-3" Multiple-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property					
Outside Area (200 feet)	1	2			
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	11-0		No	

GNY Investments, LLC, 1517 23rd Street

21-2017-4.09



1 inch = 80 feet

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

(Circle One)

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Dennis DeSoode

Signature *Dennis DeSoode*

SEP 07 2017

Address 2501 E. LEACH AVE 50720

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

Keep cleaning up the  
neighborhood  
+ graffiti

Item ZON2017-00141

Date 8/30/17

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

(Circle One)

COMMUNITY DEVELOPMENT

Print Name Karol Campbell

Signature *Karol Campbell*

SEP 06 2017

Address 1506 3rd St

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

The last tenant were drunk drivers, prostitutes,  
alcoholics. They were loud & disrespectful to the  
neighborhood. They would come knocking on my  
door asking for money or rides to the store etc.  
The owners don't care as long as they make money

Item ZON2017-00141

Date 8/29/17

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

(Circle One)

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Shelli Orr

Signature *Shelli Orr*

SEP 12 2017

Address 1502 22nd ST

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

I think we need more  
single family dwellings its  
already crazy enough on these  
streets in this area - + how  
about speed bumps put on Clark  
we have babies here + car race B



Updated on: 9/7/2017

432B