



Roll Call Number

16-1859

Agenda Item Number

55B

Date October 24, 2016

**RESOLUTION HOLDING HEARING ON REQUEST FROM
ENRIQUE AND OSCAR ZENTENO TO REZONE PROPERTY
LOCATED AT 2348 AND 2354 EAST GRAND AVENUE**

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 on September 1, 2016, its members voted 8-0 to recommend **DENIAL** of a request from Enrique and Oscar Zenteno (owners) to rezone property located at 2348 and 2354 East Grand Avenue ("Property") from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow for the existing legal non-conforming auto repair business to be brought into conformance with the City's Zoning Code; and

WHEREAS, on September 12, 2016, by Roll Call No. 16-1517, it was duly resolved by the City Council that the application of Enrique and Oscar Zenteno to rezone the Property be set down for hearing on September 26, 2016 at 5:00 p.m. in the Council Chamber at the Municipal Service Center; 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, on September 26, 2016, by Roll Call No. 16-1663, the City Council opened and continued the hearing on the rezoning to October 24, 2016, and directed the Legal Department staff to prepare documentation including conditions for approval of the rezoning; and

WHEREAS, the following conditions have been recommended by the Community Development Department and accepted by the property owners:

- (1) The Property shall be brought into full conformance within one year of the approval of the rezoning, and kept, in accordance with an approved Site Plan under requirements as applicable to "C-2" Districts, including landscaping and paving requirements.
- (2) Any buildings on the Property shall be brought into good repair within one year of the approval of the rezoning, and kept in good repair, all to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.
- (3) There shall not be storage on the Property 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 on the Property:
 - a) Automobile washing and detailing establishments.



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- 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 on the Property:
- 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; 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 locally known as 2348 and 2354 E. Grand Avenue, legally described as:

Lots 74 through 76, CENTRAL PARK, an Official Plat, all 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 Limited "C-2" General Retail and Highway Oriented Commercial District, to allow for the existing legal non-conforming auto repair business to be brought into conformance with the City's Zoning Code, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in



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writing by the owner of the Property, which is binding upon the owner and its successors, heirs and assigns.

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 Limited "C-2" General Retail and Highway Oriented Commercial District, to allow the existing legal non-conforming auto repair business to be brought into conformance with the City's Zoning Code, are hereby received and filed, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway Oriented Commercial District with conditions as set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Gatto to adopt.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZON2016-00120)

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	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Jankin
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.

Diane Fauh
City Clerk