

Date..... April 9, 2007

WHEREAS, on March 26, 2007, by Roll Call No. 07-548, it was duly resolved by the City Council that the application of Phui Lovan, to rezone certain property he is purchasing from Pacific One, L.L.C. (represented by Sam Baccam, Manager), and located in the vicinity of 1020 E. 12th Street, more fully described as follows:

The North 44.22 feet of Lot 9, Block 9, Stewart's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "R1-60" One-Family Low-Density Residential District to the "NPC" Neighborhood Pedestrian Commercial District classification, be set down for hearing on April 9, 2007, at 5:00 P.M., in the Council Chambers of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on March 29, 2007, 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 Plan and Zoning Commission voted 9 to 1 in support of a motion to recommend that the proposed rezoning and the corresponding amendment to the comprehensive plan be denied.

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, statements of interested persons and arguments of counsel, the objections to the proposed rezoning are hereby overruled, and the hearing is closed.
2. The City Council hereby makes the following findings of fact regarding the proposed rezoning:
  - a. The proposed rezoning is not in conformance with the Des Moines 2020 Community Character Land Use Plan.
  - b. The entire property proposed to be rezoned is covered by the existing building and there is no available off-street parking.

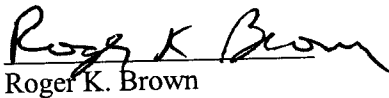
( continued )

Date April 9, 2007

- c. Rezoning the property to a commercial use creates a new isolated commercial district that is too small to be used for any use in conformance with the requirements of the Zoning Ordinance.
  - d. If the application of the existing zoning regulations has the effect of denying the owner any economic use of the property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.
3. The proposed rezoning of the property described above to the "NPC" Neighborhood Pedestrian Commercial District classification is hereby DENIED.

MOVED by \_\_\_\_\_ to adopt and deny the proposed rezoning.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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NOTE: If the City Council desires to approve the rezoning, an appropriate motion would be to continue the public hearing until April 23, 2007, and to direct the Legal Department to prepare the appropriate legislation to approve the proposed rezoning subject to appropriate conditions.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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

SOB

Request from Phui Louie Lovan (Proprietor) to rezone property located at 1020 East 12 <sup>th</sup> Street. The subject property is owned by Sam and Sara Baccam.			File # <b>ZON2005-00063</b>		
<b>Description of Action</b>	Rezone property from "R1-60" One-Family Low-Density Residential District to "NPC" Neighborhood Pedestrian Commercial District to allow the existing commercial building to be used for a catering business and second floor apartments.				
<b>2020 Community Character Plan</b>	Low-Density Residential.				
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements.				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District.				
<b>Proposed Zoning District</b>	"NPC" Neighborhood Pedestrian Commercial District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	1	10	0	<20%	
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	9-1		No	

Phui Louie Lovan - 1020 E 12th Street

ZON2005-00063



Item ZON 2005 00063

Date \_\_\_\_\_

(am)  (am not) in favor of the request.  
(Circle One)

SOB

Print Name Judy C LEO

Signature Judy C Leo

Address 1015 E. 12<sup>th</sup> St.

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

Always been business there.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED

MAY 24 2005

COMMUNITY DEVELOPMENT  
DEPARTMENT

Item ZON 2005 00063

Date 5-23-5 **SOB**

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

**RECEIVED**

MAY 25 2005

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name

Jeffrey Odell-Manuel

Signature

*[Handwritten Signature]*

Address

1208 Buchanan St Dm  
50316

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

The last Bar over in that area had  
lots of problems, noise complaints,  
fighting, broken glass outside, gun shots  
lots of police there.

Item ZON 2005 00063

Date 5-23-05

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

Print Name

Hildegard Williams

Signature

*[Handwritten Signature]*

Address

1108 E 17th St

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

**RECEIVED**

MAY 24 2005

COMMUNITY DEVELOPMENT  
DEPARTMENT

Item ZON 2005 00063

Date 5-24-05

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

RECEIVED ✓

JUN 02 2005

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Lorraine Eldredge

Signature Lorraine Eldredge

Address 1115 Fremont St

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

No! - City erred allowing this business (orig restr now a bar). To allow him to continue would compound the error & would be unfair to residents. Precedent opening door for future undesirable business.

Item ZON 2005 00063

Date 5-25-05

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

RECEIVED ✓

MAY 31 2005

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name TED J. NELSON

Signature Ted J. Nelson

Address 1224 DAVIS AVE. DM., 50315

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

Business is loud and stays open until 4 + 50'clock in the morning. Customers park in drive at 1021 E. 12<sup>th</sup>. Music is loud and can be heard in the entire house. This building should be apte. only. remove the grandfather clause as this is not good for the neighborhood.

SOB

Item ZON 2005 00063

Date 5-21-05

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

(Circle One)

RECEIVED ✓

MAY 27 2005

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Emilio Alas

Signature Emilio Alas

Address 1105 Fremont

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

1. TO MUCH TRAFIC ON WEEKENDS AND ALL WEEK  
NIGHTS.
2. THESE IS A RESIDENTIAL ZONE  
AND THERE IS TOO MANY PEOPLE AT NIGHTS.  
PEOPLE BRACKS WINDOWS IN CARS AND STILL STEREOS  
AND TOOLS.
3. THE BARTHAT WAS THERE BEFORE HAD TO MANY PROBLEMS  
AND WAS TO NOISE.

Item 2005 00063

Date Feb 21, 2007

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

(Circle One) RECEIVED

FEB 28 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Lorraine Eldredge

Signature Lorraine Eldredge

Address 1115 Fremont St.

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

As before. - There is NO parking space. \*  
- Mr. News says one thing, does another.  
- There hasn't been a public business at 1030 & 12th since at least 1945. - we don't need the traffic - or smell. Or liquor problems.  
\* - He started a restaurant once, turned it into a bar, without notifying City/Dm or admitting it.

Item 2005 00063

Date February 21, 07

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

(Circle One)

RECEIVED

FEB 26 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name LENA SCHOOLEY

Signature Lena Schooley

Address 1809 E. 12th DES MOINES I, 50316

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

I put up with R & R Tavern. We don't need business like that in a neighborhood or any other business. The structure is falling down. The bricks on top are falling down on the sidewalk below.



Item 2005 00063

Date 2/25/07 SOB

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

(Circle One)

RECEIVED

FEB 28 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Emilio ALAS / Maria ALAS

Signature Maria ALAS

Address ~~1105~~ 1105 Fremont / moved to 549 E OAKWOOD I PLEASANT HILL IA 5032

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

there is NO parking

Item 2005 00063

Date 2-26-07

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

(Circle One)

RECEIVED

FEB 28 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name JAMES Lee Howard

Signature James Lee Howard

Address 1112 Buchanan

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

NO Bar!

Item 2005 00068

Date 2-27-07

I (am)  oppose in favor of the request.  
(Circle One)

**RECEIVED**

**MAR 18 2007**  
**COMMUNITY DEVELOPMENT DEPARTMENT**

Print Name Leroy Waddle

Signature Leroy Waddle

Address 806 Hi. Way 71385

Reason for opposing or approving this request may be listed below:  
Lynnville, Ia  
50153

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SOB

RECEIVED

FEB 28 2007

COMMUNITY DEVELOPMENT  
DEPARTMENT

833 Walker Street  
Des Moines, Iowa 50316-2933  
February 28, 2007

Planning and Zoning Board  
City of Des Moines

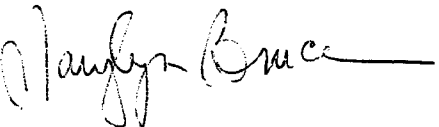
Rezoning Request, 1020-22 E. 12<sup>th</sup> St.

The Capitol Park Neighborhood Association has been involved with this property over several transformations of one sort or another for several years. Originally the owner, Mr. Lovan, requested permission from the Zoning Board of Adjustment to continue the business he had already initiated, claiming grandfathering rights which were expired for many years.

During the period Mr. Lovan operated a "restaurant" business at this location, neighbors complained about excessive noise, illegal parking, possible drug activity, drunkenness and other bar-like activities. Despite numerous approaches to the owner about these problems, they continued, unabated. During the period Mr. Lovan was involved in divorce proceedings, he transferred ownership to his employer, but continued to operate the property and business. He then asked for rezoning and was required to present his plan to the association.

Association members voted in opposition to any business in that location, and shared our concerns with you in 2005. The property is in close proximity to many residences. There are several business corridors in our borders, but no other businesses from the freeway north to E. University on E. 12<sup>th</sup> St. This is a residential corridor; the proposed business is too close to these residences. Parking is not available. The building takes up all the land; there is not even room for apartment trash totes. Mr. Lovan has not been forthcoming nor responsive to the difficulties his business has caused neighbors in the past. We remain concerned that this disconnect will not be abated.

Capitol Park Neighborhood Association is categorically opposed to the rezoning request for this property.

Sincerely,  
  
Marylyn Bruce, Chairperson