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Date August 9, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM OSCAR AND ENRIQUE ZENTENO
TO AMEND PLANDSM FUTURE LAND USE CLASSIFICATION
AND TO REZONE 2354 EAST GRAND AVENUE**

WHEREAS, on April 19, 2021, by Roll Call No. 21-0615, the City Council received a communication from the Plan and Zoning Commission advising that at a public hearing held on April 1, 2021, its members voted 9-4 in support of a motion to recommend **DENIAL** of a request from Oscar and Enrique Zenteno (owners) to amend the PlanDSM: Creating Our Tomorrow comprehensive plan future land use classification for real property locally known as 2354 East Grand Avenue (“Property”) from Neighborhood Mixed Use to Community Mixed Use, and to rezone the Property from MX1 Mixed Use District to MX3 Mixed Use District, to allow the ongoing operation of a Minor Vehicle/Maintenance Repair use on the Property; and

WHEREAS, on April 19, 2021, by Roll Call No. 21-0615, it was duly resolved by the City Council that the request to amend the land use designation and to rezone the Property be set down for hearing on May 10, 2021, at 5:00 p.m., by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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 land use amendment and rezoning; and

WHEREAS, on May 10, 2021, by Roll Call No. 21-0730, the City Council opened and continued said hearing to 5:00 p.m. on June 14, 2021, at the Council Chambers and directed Development Services staff and the Legal Department to prepare rezoning conditions and documents required to approve the proposed rezoning; and

WHEREAS, on June 14, 2021, by Roll Call No. 21-0918, the City Council opened and further continued said hearing to 5:00 p.m. on June 28, 2021, upon request by the applicants’ representative for additional review time; and

WHEREAS, on June 28, 2021, by Roll Call No. 21-1045, the City Council opened and further continued said hearing to 5:00 p.m. on July 19, 2021, upon request by the applicants’ representative for additional review time; and

WHEREAS, on July 19, 2021, by Roll Call No. 21-1157, the City Council opened and further continued said hearing to 5:00 p.m. on August 9, 2021, upon request by the applicants’ representative for additional review time; and

WHEREAS, City Development Services staff worked with the applicant to establish conditions related to the rezoning, as follows, which conditions are included in an Acceptance of Rezoning executed by the property owners:

1. Any Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to “MX3” Districts and Workshop/Warehouse Building Type, 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. 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.
4. The only uses permitted on the Property shall be the Commercial – Vehicle Sales and Service – Minor Vehicle Maintenance/Repair use and any use permitted in common with the MX1 Mixed Use District.



Date August 9, 2021

- 5. No more than three (3) vehicles per bay may be stored outdoors while awaiting repair or pick-up.
- 6. No long-term outdoor storage of vehicles beyond 72 hours is allowed.
- 7. Vehicles awaiting repair or pick-up may not occupy required parking spaces.
- 8. All vehicles must have current license tags.
- 9. Outdoor storage of junk, debris, tires or vehicle parts is prohibited.
- 10. All repairs must occur within a completely enclosed building; 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 2354 East Grand Avenue, legally described as: LOTS 74, 75 AND 76 OF CENTRAL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from MX1 Mixed Use District to Limited MX3 Mixed-Use District, to allow the ongoing operation of a Minor Vehicle/Maintenance Repair use on the Property, subject to the above-stated conditions; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and 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 and all statements of interested persons and arguments of counsel, any objections to the proposed land use amendment and the proposed rezoning of the Property to Limited MX3 Mixed-Use District are hereby overruled, and the hearing is closed.
- 2. The proposed amendment to PlanDSM: Creating Our Tomorrow comprehensive plan, to amend the future land use classification for the Property from Neighborhood Mixed Use to Community Mixed Use, is hereby approved.
- 3. The proposed rezoning of the Property, as legally described above, to Limited MX3 Mixed-Use District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to the above-stated conditions and final passage of an ordinance rezoning the Property as set forth herein.

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

MOVED BY _____ TO ADOPT.

(ZON2021-00021)

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 §134-6.3.9.B.1.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

CERTIFICATE

I, P. KAY CMELIK, 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.

Mayor

City Clerk

7/19/21

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~~6/18/21~~ 6/14/21
Date May 10, 2021
Agenda Item 49
Roll Call # 21-1045
21-1157

April 13, 2021

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their April 1, 2021 meeting, the following action was taken regarding a request from Oscar and Enrique Zenteno (owners) to rezone the property located at 2354 East Grand Avenue from "MX1" Mixed Use District to "MX3" Mixed Use District, to allow use of the site for Vehicle Maintenance/Repair, Minor.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-4 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus				X
Dory Briles	X			
Abby Chungath		X		
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar		X		
Lisa Howard	X			
Carolyn Jenison		X		
Greg Jones	X			
William Page	X			
Rocky Sposato		X		
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

APPROVAL of Part A) the proposed rezoning is **not** in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use, Part B) **DENIAL** of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use, and Part C) **DENIAL** of rezoning the property to "MX3" Mixed Use District. (ZON2021-00020)

6. **General Neighborhood/Area Land Uses:** The subject property is located in an area that is developed primarily with One Household Living residential uses, with commercial structures scattered throughout.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairground Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed March 12, 2021 (20 days prior to the hearing) and March 22, 2021 (10 days prior to the hearing) to the Fairground 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 on the date of the mailing. The Fairground Neighborhood Association notices were mailed to Laura Mundy, PO Box 473, Pleasant Hill, IA 50327. The applicant was required to conduct a neighborhood outreach by written letter, with a summary to be available for the hearing.

The applicant can provide a summary of their required neighborhood outreach at the public hearing.

8. **Relevant Zoning History:** The property was rezoned by the City Council on October 23, 2016 by Ordinance No. 15,525 subject to the following conditions.
 - (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.
 - 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; and
 - 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:

COMMUNITY MIXED USE

Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

The property is surrounded in the neighborhood by remaining Low Density Residential designation. While there are other existing commercially zoned properties within a few blocks, the PlanDSM designates the predominance of this area for Low Density Residential. While the Plan contemplates adding additional neighborhood level commercial use or development on the subject property, Staff does not believe that either the proposed amendment to the PlanDSM future land use designation or the proposed rezoning to an "MX3" Mixed Use District are appropriate given the intent of PlanDSM.

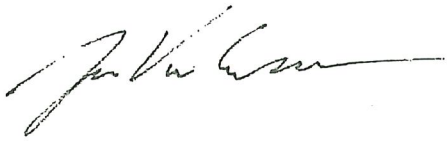
2. **Additional Information:** The subject property has an enforcement history dating back to 2002 that includes violations, such as storage of inoperable vehicles, storage of junk/debris vehicle parking, and storage on unpaved surfaces or on adjoining Right-Of-Way. There have also been several impounds of vehicles from the property in that time. In 2015, the City initiated legal proceedings against the property. The enforcement process was suspended following the rezoning in 2016. However, the applicant did not perform on the zoning conditions approved in 2016. Legal action was again brought by Zoning Enforcement in 2020 and is pending. This has prompted the owners to pursue the rezoning process again.

Should the property be rezoned for allowance of the Minor Vehicle Maintenance/Repair use, the previous illegal expansion already triggered the subsequent need for Site Plan compliance for the entire site with the Permit and Development Center.

If the Commission should decide 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 "MX3" Districts and Workshop/Warehouse Building Type, 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.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jason Van Essen", with a long horizontal flourish extending to the right.

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

21-1157
 21-1045
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Request from Oscar and Enrique Zenteno (owners) for the property located at 2354 East Grand Avenue.				File #	
				ZON2021-00020	
Description of Action	Rezone property from "MX1" Mixed Use District to "MX3" Mixed Use District, to allow use of the site for Vehicle Maintenance/Repair, Minor.				
PlanDSM Future Land Use	Current: Neighborhood Mixed Use Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"MX1" Mixed Use District				
Proposed Zoning District	"MX3" Mixed Use District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	4	2			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council		Yes
	Denial				No
					X

Oscar and Enrique Zenteno, 2354 East Grand Avenue

ZON2021-00020



1 inch = 89 feet

The development Services Department

Eugene Brown

My address is 2325 Des Moines st.

Des Moines, Iowa 50317

I am writing this letter to support Oscar and Enrique Zenteno [owners] to rezone property located at 2354 East Grand Avenue from MX1 to MX3 class zoning

This Familys owned bussiness are good people and fair with customers and keep

the site in a clean and bussiness apperance and are good neighbors.

sincerly Eugene Brown

Eugene Brown

RECEIVED
COMMUNITY DEVELOPMENT

MAR 29 2021

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Item: ZON2021-00020

Date: 03/26/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Eugene Brown

Name: Eugene Brown

Address: 2325 Des Moines St

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
MAR 29 2021

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

This Family owned bussiness are
good people. They also are good
neighbors and keep the bussiness
clean

Item: ZON2021-00020

Date: 3-24-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: David W. Maxson

Name: David Maxson

Address: 2332 E Grand Ave

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
MAR 29 2021

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

Oscar is a great person who tries to keep his property clean
and presentable. It's very nice to have a garage on the block.
There are houses in the area that are more trashy and
unkempt than Oscar's business. I don't understand why this is an
issue at all!!

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Item: ZON2021-00020 Date: 3-24-21

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: 

Name: Debora J Allison

Address: 2322 E. Grand

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
MAR 29 2021

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

The location is not kept clean. Alleyway
affected by mud and rats.

