



Roll Call Number

Agenda Item Number

42B

ALTERNATE RESOLUTION

Date January 27, 2014

**RESOLUTION CLOSING HEARING ON A REQUEST FROM KWIK TRIP, INC.,
D/B/A TOBACCO OUTLET PLUS, REPRESENTED BY DONALD ZIETLOW
(OFFICER), TO REZONE PROPERTY LOCATED AT 3409 SOUTHWEST 9TH
STREET, TO ALLOW A FUTURE CONDITIONAL USE APPLICATION FOR
CONTINUED USE OF THE PROPERTY FOR A BUSINESS WHERE MORE THAN
40 PERCENT OF THE GROSS RECEIPTS FROM SALES MAY BE DERIVED FROM
THE SALE OF BEER, WINE OR TOBACCO PRODUCTS,
AND APPROVING SAME**

WHEREAS, on January 13, 2014 by Roll Call No. 14-0050, it was duly resolved by the City Council that the application of Kwik Trip, Inc. d/b/a Tobacco Outlet Plus, to rezone certain property located in the vicinity of 3409 S.W. 9th Street from the “C-1” Neighborhood Retail Commercial District to a Limited “C-2” General Retail and Highway-Oriented Commercial District classification, as more fully described below, be set down for hearing on January 27, 2014, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, the Plan and Zoning Commission has recommended that the proposed rezoning be denied; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on January 16, 2014, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with the notice those interested in the 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 following described property:

Lot 3 and the North 36 feet of Lot 4, DARNES PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the “C-1” Neighborhood Retail Commercial District to a Limited “C-2” General Retail and Highway-Oriented Commercial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:



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The following uses of structures or land shall not be permitted on the subject property:

- a) Any business required to have a Class E Liquor License.
b) Adult entertainment businesses.
c) Delayed deposit services.
d) Off-premises advertising signs.
e) Taverns and nightclubs.
f) Vehicle display lots.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property from the "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification are hereby overruled, the hearing is closed, and the proposed rezoning is hereby APPROVED.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

[Handwritten signature of Roger K. Brown]

Roger K. Brown

Assistant City Attorney

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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRAY, HENSLEY, MAHAFFEY, MOORE, VOSS, and 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