



Roll Call Number

Agenda Item Number

28-I

Date October 14, 2019

RESOLUTION SETTING HEARING ON APPLICATION OF PHYLLIS WOODS TRUST FOR RELIEF FROM TEMPORARY MORATORIUM

WHEREAS, on September 9, 2019, by Roll Call No. 19-1445, the City Council approved a temporary moratorium providing that no application to rezone property to any zoning district other than Planned Unit Development (PUD) shall be accepted or processed by the City of Des Moines between September 9, 2019 and December 14, 2019, in order to avoid rezoning properties to zoning districts that would not exist as of the planned effective date of December 15, 2019, of the City's proposed Zoning Code, Design Code, and Citywide Zoning Map; and

WHEREAS, the Phyllis Woods Trust seeks to sell its real property locally known as 6015 Grand Avenue to Taylor Boesen for use as an events center, which use is not allowed in the current zoning designation of the property of "C-1" Neighborhood Retail Commercial District; and

WHEREAS, the Phyllis Woods Trust asserts that the City's refusal to allow it to proceed with the rezoning of the property for use as an events center is causing it undue hardship.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

- 1. That the attached communication from Todd Von Stein, DesignCo, submitted on behalf of the Phyllis Woods Trust, is hereby received and filed.
2. That the City Council shall consider the appeal by the Phyllis Woods Trust at a public hearing to be held at the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on November 4, 2019.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once in accordance with Section 362.3 of the Iowa Code.

FORM APPROVED:

MOVED BY _____ TO ADOPT.

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED labels.

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.

Mayor

City Clerk

28-1

MORATORIUM APPEAL LETTER

DesignCo
2420 University Avenue
Des Moines, Iowa 50311
515-822-0865
todd@designcodm.com

September 24, 2019

To: Diane Rauh, City Clerk

Re: 6015 Grand Avenue Rezoning Application Appeal

This letter is a request to appeal for relief of the re-zoning moratorium due to the hardship to the ownership of White Willow Events. Taylor Boesen has made an offer to purchase 6015 Grand Avenue from the Phyllis Woods The property has been vacant and condemned for 7 seven years.

The Re-Zoning Application was submitted August 8th with the appropriate signature from the managing individual on the Phyllis Woods Trust, Ronald Herndon. August 9th, City Staff advised us that Legal staff required signatures representing all 8 titleholders. We immediately started that process. However, the seller's agents have not pursued the necessary signatures in a timely manner leading to a delay in the rezoning process. Stacy Martin (Buyer's Agent) has consistently requested the required signatures as follows:

- August 9th email
- August 9th phone call follow-up – voice mail
- August 14th text reminder
- August 20th text reminder
- August 22nd email
- August 22nd phone call follow-up
- September 4th email
- September 4th phone call follow-up – voice mail

2019 OCT -2 AM 10: 23
CITY CLERK
DES MOINES, IA

FILED

Jason Lozano (broker for the Seller) contacted Erik Lundy on September 16th 2019. Mr. Lundy forwarded all email communications to DesignCo regarding the application to him by email so that Mr. Lozano had a full understanding of the time line and Buyer's responses on the application. Mr. Lundy provided the same response to Mr. Lozano with regard to the signatures for the application (i.e. Seller did not have all the necessary signatures or fees for a complete application prior to the September 9th, 2019 moratorium action by the Council.)

Buyer's agent received the titleholder documents September 18th. City staff was provided the document (attached) the same day. In order to get the titleholder document, our client had to agree upon an October 31st closing date. In the event the buyer does not close on that date, the property is going back on the market and \$16,500.00 earnest monies and due diligence professional fees will be forfeited. Furthermore, the seller's agent will not accept a second offer from our client. The seller's agents have also imposed a one thousand dollars per week selling price increase beginning September 13th.

At this time the property is zoned C1 which does not allow an events center type occupancy. In order for our client to proceed with the purchase and reduce the burden of the weekly price increase a rezoning decision is requested during the moratorium period. We respectfully request to be placed on October 17th Planning and Zoning Commission Agenda.

Gratefully,

Todd Von Stein



Rezoning Application Form

Please review the Rezoning Process Overview and Guidelines for Neighborhood Meetings sheet that accompanies this application prior to submitting. Completed forms must be submitted in-person to the Community Development Department Planning and Urban Design Division at 602 Robert D. Ray Drive, Des Moines, IA 50309-1881 (515-283-4182) unless separate arrangements are made with staff by phone. The Zoning requirements referred to on this form can be found within the City of Des Moines' Municipal Code in Chapter 134. Additional information is provided online at: <http://www.dmgov.org/government/boards/PlanandZoningCommission>.

Please note that a Development Assistance Conference with City staff is required prior to submittal of an application for rezoning. To schedule a Development Assistance Conference, please call 515-283-4200 or use the following link to print the meeting request form: <http://www.dmgov.org/Departments/CommunityDevelopment/PDF/Development%20Assistance%20Request%20Form.pdf>.

DATE APPLICATION DUE:	DATE OF SCHEDULED PUBLIC HEARING:
DATE APPLICATION SUBMITTED:	CASE NUMBER: ZON20-00 (completed by City staff)

I. PROPERTY REQUESTED FOR REZONING

Address:	6015 GRAND AVENUE	
Legal Description: (Please Attach Separately If Necessary)	SEE ATTACHED	
Name of All Titleholders: (Please Attach Separately If Necessary)	SEE ATTACHED	
Area of Property (acres or square feet):	43,114 SF	
Current Zoning District(s):	R-180 & C1	Proposed Zoning District(s): C-2

II. APPLICANT INFORMATION

Name/Business:	Ronald Herndon	Mailing Address:	5127 Pleasant St.
Signature:		City, State Zip:	Des Moines, Iowa 50312-1854
Printed Name:	Todd M. Von Stein	Telephone:	515-822-0865
Date:	05 DECEMBER 2019 <i>August</i>	Email Address:	todd@designcodm.com
Interest in Property: (Please check one)	<input checked="" type="checkbox"/>	Titleholder	
	<input type="checkbox"/>	Contract Buyer of Record	
	<input type="checkbox"/>	Lessee	
	<input checked="" type="checkbox"/>	Other: N/A	

III. CONSENTING TITLEHOLDER(S) OR CONTRACT BUYER(S) OF RECORD (Required if other than applicant)

Name/Business:	Mailing Address:	5127 PLEASANT ST
Signature: <i>Ronald Herndon</i>	City, State Zip:	DES MOINES, IA 50312-1854
Printed Name: RONALD HERNDON	Telephone:	515 278 3773
Date: 05 AUGUST 2019	Email:	
Interest in Property: (Please check one)	<input checked="" type="checkbox"/>	Titleholder of Record
	<input type="checkbox"/>	Contract Buyer of Record

IV. ACKNOWLEDGEMENT OF NEIGHBORHOOD MEETING POLICY

Please review the Rezoning Process Overview and Guidelines for Neighborhood Meetings sheet that accompanies this application and provide initials of applicant's acknowledgement of responsibility for conducting an independent neighborhood meeting.

I, the signed applicant, have read the aforementioned policy and agree to conduct a separate neighborhood meeting inclusive of property owners and Recognized Neighborhood Association representatives contained on a list provided by the City prior to the scheduled public hearing for this Zoning Amendment request.	INITIALS TVS
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Legal Description:

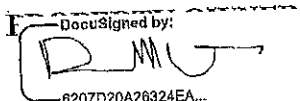
W 104F INTERV LT F & LTS 36, 37 & 38 & -EX S 4F E 2F- W 106F LT 39 & -EX S 6F- LT 41 &
-EX S 6F & BEG 9F N OF WLY EXT OF S LN THN SLY TO PT 6F N OF WLY EXT OF S LN E TO PT 4F E
OF SLY EXT OF W LN NW TO POB- LT 42 GRAND AVE WATERBURY


AUTHORIZATION


The following Authorization is hereby given by the undersigned owners of the property described as 6015 Grand Avenue, Des Moines, Iowa (hereinafter described as the "Property"):


In recognition of the fact that state and local governmental authorities will not consider any applications for governmental approvals, processes, or permits regarding the Property (hereinafter described as "Governmental Approvals") without the authorization of the owners of the Property, the undersigned owners of the Property hereby give authority Taylor Boesen ("Buyer"), as well as its designees, assigns, and successors in interest, the right and authority to request Governmental Approvals. The undersigned property owners recognize that such Governmental Approvals may include, but not be limited to, a request to rezone the Property from its current classification and to amend the governmental comprehensive plan accordingly; PROVIDED, HOWEVER, NONE OF THE GOVERNMENTAL APPROVALS SHALL BE EFFECTIVE UNLESS AND UNTIL THE PROPERTY IS SOLD BY THE UNDERSIGNED OWNERS TO BUYER, or its designee, assigns or successors in interest. Furthermore, the undersigned owners of the Property shall not be required to incur any duty, liability or obligation, contingent or otherwise, relating to the Governmental Approvals. Furthermore, the undersigned owners of the Property hereby authorize Buyer, as well as its designees, assigns, and successors in interest, to access the Property in order to conduct due diligence, including but not limited to testing, environment site assessment and other inspection activities. The undersigned owners shall not enter into any other leases or contracts regarding the Property without the prior consent of Buyer, which consent shall not be unreasonably withheld or denied regarding the Property.


A facsimile, photo copy, PDF, or other electronic copy of this Authorization shall serve as and be deemed to be the same as an original hard copy of the Authorization.

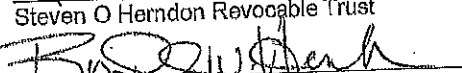
DocuSigned by:

6207D20A2B324EA...
Phyllis M Woods Trust

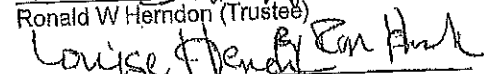

Marjorie Schwarz (Trustee)

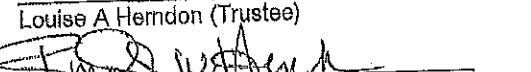

Marjorie Schwarz Trust


Steven O Herndon (Trustee)


Steven O Herndon Revocable Trust


Ronald W Herndon (Trustee)


Louise A Herndon (Trustee)


Ronald and Louise Herndon Joint Revocable Trust

todd@designcodm.com

From: Martha Miller Johnson <marthamillerjohnson@gmail.com>
Sent: Sunday, September 15, 2019 1:47 PM
To: todd@designcodm.com
Subject: White Willow Events

Dear Todd,

Thank you very much for presenting the proposed new location plans White Willow Events at 6015 Grand Avenue in Des Moines. The Waterbury Neighborhood Association has enthusiastically approved the plan, which is consistent for our desire to improve our historic neighborhood.

We applaud your innovative space plans and look forward to working with you as you continue to grow your business in the historic Waterbury Neighborhood.

Thanks again,

Martha Miller Johnson

Waterbury Neighborhood Association Board President

marthamillerjohnson@gmail.com
515/480-1583