

★ Roll Call Number

09-581

Agenda Item Number

56A ✓

Date April 6, 2009

WHEREAS, on January 26, 2009, by Roll Call No. 09-090 it was duly resolved by the City Council that the request from Ronald Brenizer, Jr. to rezone property located at 4506 Southwest 9th Street from C-1A Neighborhood Commercial Reuse District to Limited C-2 General Retail and Highway Oriented Commercial District, to allow a construction contractor's business limited to use of the building for offices and for parking over-the-road vehicles related to the business, rezoning would be heard in Council Chambers at 5:00 p.m. on February 9, 2009 and that notice of the proposal be published according to law; and

The subject property is more specifically described as follows:

S 165 F E 125 F LT 20 & TRI PC LT C E & ADJ AMEND PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, due notice of hearing was published in the Des Moines Register on January 29, 2009, setting forth the time and place for hearing on the proposed rezoning; and

WHEREAS, on February 9, 2009 by Roll Call No. 09-277 the City Council continued the hearing on the proposed rezoning until March 9, 2009 at 5:00 p.m., and instructed Mr. Brenizer to work with the Community Development Department to create a plan and cost estimate to bring the property into compliance with the Zoning Code and Site Plan regulations and guidelines; and

WHEREAS, Community Development staff have met with the applicant to outline requirements for bringing the property into compliance with development regulations. At this time the applicant and all owners have not yet agreed to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance to rezone the property:

- A. Prohibit the use of the property for adult entertainment business, automobile establishments for display, hire, rental or sales, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, and taverns and night clubs.
- B. Conformance with current Site Plan requirements, including landscaping standards and paving of all off-street parking; the property shall be brought into conformance with an approved Site Plan to the extent it does not eliminate minimum required parking and maneuvering.
- C. The property owners will provide a trash enclosure of a design that is acceptable to the Community Development Director.
- D. Prohibit storage of materials or equipment outside of a building.
- E. That the City Council will initiate rezoning a C-1 district classification in the event the property is not brought into compliance with current Site Plan regulations and all other zoning conditions on or before October 31, 2009.

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WHEREAS, in accordance with the published 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 City Council.

WHEREAS, the applicant requested that the hearing on his proposed rezoning be postponed until the April 6, 2009 City Council meeting and on March 23, 2009 the City Council resolved to open the hearing and to continue the hearing until April 6, 2009 at 5:00 p.m. in Council Chambers.

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 statements of interested persons and arguments of counsel, the arguments in support of the proposed rezoning are hereby overruled and the hearing is closed.
2. The proposed rezoning is hereby found to be: in conformance ; not in conformance with the Des Moines 2020 Community Character Plan. (Plan and Zoning Commission recommended not in conformance).
3. The proposed rezoning of the above-described property from C-1A Neighborhood Commercial Reuse District to Limited C-2 General Retail and Highway Commercial District is hereby:

APPROVED: 7

DENIED: 0

Moved by Hensley to adopt.
(Six votes required for approval)

APPROVED AS TO FORM:

Michael F. Kelley
Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			
MOTION CARRIED				APPROVED

T. M. Franklin Cownie 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 Rauh City Clerk