



Roll Call Number

09-2225

Agenda Item Number

54A

Date December 7, 2009

RESOLUTION AFFIRMING THE DECISION OF THE CITY PLAN AND ZONING COMMISSION TO CONDITION APPROVAL OF THE SITE PLAN FOR A NEW CASEY'S CONVENIENCE STORE AT 6120 DOUGLAS AVENUE UPON PROVISION OF ALLOWANCE FOR FUTURE VEHICULAR ACCESS TO THE ADJOINING PROPERTY TO THE WEST

WHEREAS, on November 5, 2009, the City Plan and Zoning Commission approved a site plan submitted by Casey's Marketing Company for a new Casey's convenience store to be constructed at 6120 Douglas Avenue upon the site of the former Garcia's Restaurant, subject to several conditions, including the following:

2. A 24 foot wide access shall be provided to the property to the west at a mutually agreed upon location between the two property owners should the adjoining site to the west be redeveloped.

WHEREAS, Casey's Marketing Company has timely appealed to the City Council pursuant to §82-210 of the Des Moines Municipal Code, seeking to have this condition removed from the approval of its site plan; and,

WHEREAS, on November 23, 2009, by Roll Call No. 09-2109, it was duly resolved by the City Council that the appeal be set down for hearing on December 7, 2009, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on November 25, 2009; and,

WHEREAS, in accordance with the said notice, those interested in the proposed site plan, 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, Section 82-210 of the City Code provides that upon appeal from the Plan and Zoning Commission, a majority vote of the city council shall be necessary to overturn or modify the action of the commission regarding a site plan; NOW THEREFORE,

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

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby approves and affirms the decision of the Plan and Zoning Commission to approve the site plan for a convenience store at 6120 Douglas Avenue subject

( continued )



Roll Call Number

09-2225

Agenda Item Number

54A

Date December 7, 2009

-2-

to certain conditions, including the requirement identified above to allow for future vehicular access to the adjoining property to the west.

3. The City Council hereby makes the following findings in support of this decision:

- a) The appellant has failed to demonstrate that the decision of the City Plan and Zoning Commission to conditionally approve the site plan was unreasonable, arbitrary or capricious.
- b) The requirement to allow for a future 24 foot wide vehicular access to the adjoining property to the west is necessary and appropriate for the reasons identified in the staff report contained in the accompanying Council Communication.

( Council Communication No. 09- 856 )

MOVED by \_\_\_\_\_ to adopt, and affirm the decision of the City Plan and Zoning Commission.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown

Assistant City Attorney

C:\Rog\Zoning\Site Plan\Casey's\RC Hrg.doc

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