



**Roll Call Number**

10-061

**Agenda Item Number**

36B

January 11, 2010

Date

WHEREAS, on December 7, 2009, by Roll Call No. 09-2184, it was duly resolved by the City Council that the application of Thomas Wilson (purchaser) to rezone certain property located in the vicinity of the 4000 block of Dubuque Avenue, more fully described below, be set down for hearing on December 21, 2009, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on December 10, 2009, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said 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:

Outlots X & Y, Eastern Mounds Plat 1, an Official Plat, and Parcel A Book 12014 Page 130 East ½ Lot 63, Broadacre, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk and Warren County, Iowa

from the R1-60 One-Family Low-Density Residential District and R-2 Two-Family Residential District to Limited R-3 Multiple-Family Residential classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- (1) Any use of the property shall be restricted to elderly living or persons with disability living arrangements.
- (2) Development of the site shall not exceed 25 bi-attached residential buildings (50 total units).
- (3) Development of the site shall include structures along the north side of Dubuque Avenue being oriented toward Dubuque Avenue rather than backing to Dubuque Avenue.
- (4) The developer shall be required to improve Dubuque Avenue to urban standards including sidewalks on both sides of the street.

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- (5) Any development of the site is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate.
- (6) Design and materials for any structure built on the subject property shall be demonstrate compatibility with the adjoining residential properties as part of review of a Site Plan Under the Design Guidelines for Multiple-Family Residential uses by the Plan and Zoning Commission.
- (7) Any trash enclosures shall be constructed with masonry materials and steel gates to match the multiple-family residential structures.
- (8) Any chain link fencing on the site shall be clad with black vinyl.
- (9) Any structure constructed on the site shall have architectural shingles.
- (10) Any bi-attached dwelling unit shall have at least 1,040 square feet of floor space excluding basements and at least a one-car attached garage.
- (11) The exterior of each bi-attached dwelling unit must be constructed of masonry (brick or stone) and/or vinyl, cedar, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 42 mills thick.
- (12) The front elevation of each bi-attached dwelling unit must contain either 1/3 to 1/2 stone or brick masonry or a front porch of not less than 60 square feet.
- (13) The front elevation of each bi-attached dwelling unit constructed must include either shutters on each side of each window or window trim not less than 4 inches in width.
- (14) Any tree removals on the site will be subject to the provisions of the tree mitigation ordinance that was adopted by the City Council on September 28, 2009.
- (15) The property owner will agree not to object to a future special assessment for paving/widening of E. 41<sup>st</sup> Street.

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WHEREAS, on December 21, 2009 by Roll Call No. 09-2317, the City Council continued the public hearing to the January 11, 2010 Council meeting at 5:00 p.m. to allow staff to meet with the developer and neighbors. This meeting took place on January 5, 2010.

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 to Limited R-3 Multiple-Family Residential classification are hereby overruled, the hearing is closed, and the proposed rezoning is approved.

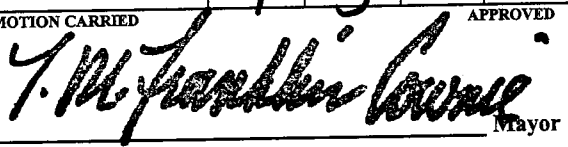
MOVED by Hensley to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. City Manager to provide a report regarding City-owned duplexes in the area.

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

Previous motion by Mahaffey to Deny, failed.  
 Yeas: Mahaffey                      Nays: Coleman  
          Moore                                Hensley  
          Cownie                                 Meyer  
              Griess

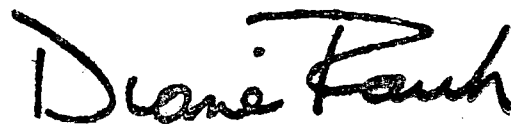
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY		✓		
MEYER	✓			
MOORE		✓		
TOTAL	4	3		

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