



Roll Call Number

10-1238

Agenda Item Number

45

Date July 26, 2010

WHEREAS, on July 12, 2010, by Roll Call No. 10-1127, it was duly resolved by the City Council that the application of Irma Lopez to rezone certain property she owns in the vicinity of 1120 East 8th Street, more fully described as follows:

East ½ of Lot 1, Block B, Deans 2nd Subdivision of Outlot, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "R1-60" One-Family Low-Density Residential District to the "R-2" Two-Family Residential District classification, to allow the existing two-story residential building to be used for two dwelling units, be set down for hearing on July 26, 2010, at 5:00 P.M., in the Council Chambers of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on July 15, 2010, 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 Plan and Zoning Commission voted 13-0 in support of a motion to recommend that the proposed rezoning and the corresponding amendment to the comprehensive plan be denied.

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, statements of interested persons and arguments of counsel, the objections to the proposed rezoning are hereby sustained, and the hearing is closed.
2. The City Council hereby makes the following findings of fact regarding the proposed rezoning:
 - a. The proposed rezoning is not in conformance with the Des Moines 2020 Community Character Land Use Plan. Approval of the rezoning would require an amendment to the Plan.
 - b. The property is only 3,658 square feet in size and does not meet the minimum area requirement of 10,000 square feet for a two-family dwelling in the "R-2" District.

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- c. Rezoning the property to a two-family dwelling is not in conformance with the predominant character of the area in which the property is located.
- d. If the application of the existing zoning regulations has the effect of denying the owner any economic use of the property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

3. The proposed rezoning of the property described above to the "R-2" Two-Family Residential District classification is hereby DENIED.

MOVED by Mahaffey to adopt and deny the proposed rezoning..

FORM APPROVED:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

NOTE: If the City Council desires to approve the rezoning, an appropriate motion would be to continue the public hearing until August 8, 2010, and to direct the Legal Department to prepare the appropriate legislation to approve the proposed rezoning subject to appropriate conditions.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Y. M. Franklin 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