

★ Roll Call Number
10-1407

Agenda Item Number
43

Date August 23, 2010

WHEREAS, on July 26, 2010 by Roll Call No. 10-1215, it was duly resolved by the City Council that the application of David L. Simon Trust to rezone certain property located in the vicinity of 201 and 205 East Walnut Street, more fully described below, from C-3 Central Business District Commercial to Limited C-3 district classification, be set down for hearing on August 23, 2010, 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 August 12, 2010, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with the 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 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:

(201 East Walnut Street)
-EX ST- W 44F LTS 1 & 2 BLK H SCOTT & DEANS ADD

(205 East Walnut Street)
EX ST E 1/3 W 1/2 LOTS 1 & 2 BLK H SCOTT & DEANS ADD

from the C-3 Central Business District Commercial to Limited C-3 classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and which are binding upon the owners and their successors, heirs and assigns as follows:

- A. Prohibit the use of the properties for adult entertainment businesses, mobile home parks, automobile washing (open bays and unattended), pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, monument sales yards, sheet metal shops and sign painting shops.
- B. Automotive Repair and Vehicle Display Lots subject to Vehicle Display Lot Site Plan Regulation continue to be permitted uses.

(Continued on Page 2)

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- C. C-3B design guidelines, as set out in Section 82-214.7, shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District and with any site plan regulations applicable to the specific use. If a building is expanded by less than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District, then the C-3B guidelines shall apply only to the expansion of the building as set out in Section 82-214.7 and with any site plan regulations applicable to the specific use.

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, objections to the proposed rezoning of the Property to a Limited C-3 Central Business District Commercial classification are hereby overruled, the hearing is closed, and the proposed rezoning is approved.

MOVED by Meyer to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

Michael F. Kelley
 Assistant City Attorney

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

MOTION CARRIED

APPROVED

T. 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