

★ Roll Call Number

10-1688

Agenda Item Number

42

October 11, 2010

Date

WHEREAS, on September 27, 2010 by Roll Call No. 10-1545, it was duly resolved by the City Council that the application of Kathy Harrison to rezone certain property she owns, and located in the vicinity of 2713 Martin Luther King Jr. Parkway, more fully described below, be set down for hearing on October 11, 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 September 30, 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 Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

(Conditional "C-2" to [a new] Conditional "C-2")

(Except the West 7 feet) the West 107 feet of Lot 3, Lambert Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

("M-3" to Conditional "C-2")

(Except the West 107 feet) Lot 3, Lambert Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the Limited C-2 General Retail and Highway Oriented Commercial and M-3 Limited Industrial to Limited C-2 General Retail and Highway Oriented District 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 said property and are binding upon the owners and their successors, heirs and assigns as follows:

- A. Prohibit the use of the property for adult entertainment businesses, 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, taverns and night clubs.
- B. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause the entire site to have to come into conformance with all applicable building codes with issuance of a Certificate of Occupancy.
- C. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause the entire site to conform with a Site Plan in accordance with all current site plan requirements.

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- D. Any use of the property for a vehicle display lot shall cause the entire vehicle display lot to conform with a Site Plan reviewed by the Plan and Zoning Commission under the design guidelines for vehicle display lots.
- E. Removal of the existing off-premises advertising sign (billboard) based upon the terms of the lease.
- F. A copy of the current billboard lease must be supplied to Zoning Enforcement staff upon approval of rezoning.
- G. Stormwater management for any Site Plan shall be designed to meet current standards applicable to site areas over an acre. (Including water quantity and water quality).


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 of the Property to a Limited C-2 General Retail and Highway Oriented District are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

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

FORM APPROVED:

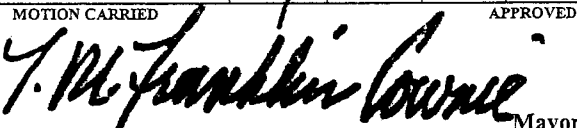

 Michael F. Kelley
 Assistant City Attorney

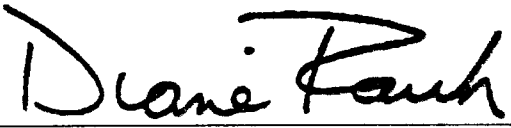
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.

MOTION CARRIED 7 APPROVED

 T. M. Franklin
 Mayor


 Diane Rauh
 City Clerk