

★ Roll Call Number  
11-0466

Agenda Item Number  
37

Date March 14, 2011

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 17, 2011, its members voted in support of a motion to recommend **APPROVAL** of a request for Zoning Text Amendments including amendments to Municipal Code Chapter 134-982 C-3A Central Business District Support Commercial Regulations and Chapter 134-1017 C-3 Central Business Regulations to prohibit gas stations and fuel retail sales businesses as permitted uses in these districts; and

WHEREAS, on February 28, 2011 by Roll Call No. 11-0308, the City Council duly resolved that the proposed Zoning Text Amendments to the Municipal Code be set down for hearing in Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on March 14, 2011, at which time the City Council would hear both those who oppose and those who favor the proposal; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on March 3, 2011, as provided by law, setting forth the time and place for hearing on the proposed amendments to the Zoning Ordinance; and

WHEREAS, the C-3A and C-3 districts encompass the entire downtown core and many fringe areas of the core. While no existing gas stations or businesses engaged in the retail sale of fuels for motor vehicles are found with the C-3 and C-3A districts currently, development has now been proposed that is incompatible with, or may impede redevelopment opportunities in or near the downtown core and the Western Gateway Redevelopment area. Incompatible, predominantly auto-oriented uses such as gas stations by the very nature of their function do not preserve or enhance the existing traditional urban development pattern that is prevalent in downtown Des Moines. Further, such uses threaten to jeopardize the extensive investment the City and many private landowners and businesses have made throughout downtown, including the Western Gateway Redevelopment area, which has now transitioned from the City's former "Auto Row" to a dynamic, modern urban neighborhood and extension of the core business district.

WHEREAS, on March 10, 2008, by Roll Call No. 08-432, the City Council adopted the downtown comprehensive plan titled "What's Next Downtown". Encouraging appropriately scaled development consisting of high quality materials, mixing uses on single sites and adding to the building and population densities are listed as several of the crucial conventions of the 'District Planning and Design Guidelines' section of the plan. New development that caters predominantly to the motor vehicle, like gas stations, rarely exhibits the urban design qualities as described in the adopted plan.

WHEREAS, City-initiated consideration of a proposal to amend the Zoning Ordinance to no longer allow gas stations and other businesses engaged in the retail sale of fuel in the C-3 and C-3A districts is a logical step needed to prevent similar uses found contrary to the development pattern of downtown from locating in or immediately near the downtown core.

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WHEREAS, the Legal Department has prepared Text Amendments including amendments to the Municipal Code Sections 134-982 district regulations and 134-1017 district regulations prohibiting gas stations and fuel retail sales businesses as permitted uses in the C-3A and C-3 districts; 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.

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

1. The City Council hereby adopts the statements set forth above in the Preamble as findings of fact.
2. That upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed Text Amendments, including amendments to the Municipal Code Chapters 134-982 and 134-1017 are hereby overruled, the hearing is closed and the Text Amendments are hereby APPROVED.

MOVED by Hensley to continue the hearing to April 11, 2011 at 5:00 pm; refer to the City Manager to conduct a comprehensive review and to make a recommendation regarding the appropriate uses in C-3 and C-3A districts.

FORM APPROVED:

Michael F. Kelley  
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