

★ Roll Call Number

12-00161

Agenda Item Number

42

January 9, 2012

Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2011, its members voted 13-0 in support of a motion to recommend **DENIAL** of a request from Hue Nguyen (owner) to rezone property located at 1435 University Avenue from R-3 Multiple-Family Residential District to Limited C-1 Neighborhood Retail Commercial District, to allow for retail development; and

WHEREAS, on September 12, 2011 by Roll Call No. 11-1577, the City Council set a public hearing on the proposed rezoning for September 26, 2011 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

The subject property is more specifically described as follows (the "Property"):

(Except Street) West 70 feet Lots 22, 23, & 24, Bertha Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on September 15, 2011, setting forth the time and place for hearing on the proposed rezoning; and

WHEREAS, on September 26, 2011 by Roll Call No. 11-1664, the City Council opened the public hearing on the proposed rezoning, and continued the hearing until October 10, 2011 at 5:00 p.m.; and

WHEREAS, on October 10, 2011 by Roll Call No. 11-1729, the City council opened the public hearing on the proposed rezoning, and continued the hearing until November 7, 2011 at 5:00 p.m.; and

WHEREAS, on November 7, 2011 by Roll Call No. 11-1914, the City Council opened the public hearing on the proposed rezoning and continued the public hearing until December 19, 2011 at 5:00 p.m. in order to address concerns with the rezoning raised by the Plan and Zoning Commission; and

WHEREAS, on December 19, 2011 by Roll Call No. 11-2145, the City Council opened the public hearing on the proposed rezoning and continued the hearing until January 9, 2012 at 5:00 p.m. so that negotiations between applicant and the property owner to the north could take place to reach an agreement that would allow satisfactory vehicular access and parking for 1435 University Avenue. To this date neither the applicant nor the property owner to its north have expressed any interest in reaching such an agreement; and

WHEREAS, in accordance with the notice those interested in the proposed rezoning, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to City Council.

★ Roll Call Number

12-0061

Agenda Item Number

42

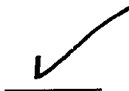
January 9, 2012

Date

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

Alternative A



Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from R-3 Multiple-Family Residential District to Limited C-1 Neighborhood Retail Commercial District are accepted, the hearing is closed and the proposed rezoning is hereby DENIED.

Moved by Griess to adopt and to DENY the proposed rezoning.

Alternative B

Moved by _____ to continue the public hearing until the _____, 2012 Council meeting at 5:00 p.m. and to direct the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to the conditions acceptable to the City and the applicant.

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 Cownie
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