

★ Roll Call Number

12-1725

Agenda Item Number

36B

November 5, 2012

Date

WHEREAS, on October 22, 2012 by Roll Call No. 12-1612, it was duly resolved by the City Council that the application of 3201 Forest, LLC (developer) represented by Mike Nelson to rezone property located at 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street, more fully described below, be set down for hearing on November 5, 2012, at 5:00 p.m., in Council Chambers at City Hall; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on October 25, 2012, 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 published 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:

South 60 feet of Lot 1, (except the North 80 feet) Lot 2, all Lot 3, (except the North 142 feet) Lot 4, Rutledge Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the C-1 Neighborhood Retail Commercial District, R1-60 One-Family Low-Density Residential District, and R-3 Multiple-Family Residential District to Limited NPC Neighborhood Pedestrian Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

- (1) The following uses shall be prohibited:
  - a) taverns and nightclubs,
  - b) billiard parlor/game room,
  - c) communication tower/antenna (unless as an extension of 20 feet or less from the structure),
  - d) delayed deposit services,
  - e) pawn brokers,
  - f) gas stations/convenience stores,
  - g) off-premises advertising signs, and
  - h) liquor stores where gross revenues of tobacco and alcohol products exceed 40% of sales.

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- (2) The density of any future residential development shall be dependent upon Site Plan review and upon the traffic study required to be submitted with the Site Plan. However, the density of any development shall not exceed 40 dwelling units per acre (48 dwelling units on a 1.20-acre site).
- (3) Any development shall be in accordance with a Site Plan under the Design Guidelines for the NPC District.
- (4) Any development of a multiple-family residential use shall be in accordance with a Site Plan under the Design Guidelines for Multiple-Family Residential.
- (5) Any multiple-family residential structure shall have at least one primary entrance oriented toward Forest Avenue.
- (6) The entire ground floor of any structure shall be sided with brick or masonry materials, with the balance sided with brick, masonry, and/or cement board materials.
- (7) Any shingles shall be architectural style.
- (8) Any off-street parking shall be landscaped and screened in accordance with the City's Landscape Standards as applicable to the C-2 District.
- (9) Any development shall include a landscaped streetscape within adjoining Forest Avenue right-of-way in accordance with the City's Landscape Standards as applicable to the C-3 District.
- (10) Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

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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, the objections to the proposed rezoning of the Property to Limited NPC Neighborhood Pedestrian Commercial District classification are hereby overruled, the hearing is closed, and the proposed rezoning to the Limited NPC Neighborhood Pedestrian Commercial District classification is hereby APPROVED.

Moved by Giess to adopt and approve the rezoning, subject to final passage of the rezoning ordinance; refer to the City Manager to review the traffic pattern and parking and to report back at the second consideration of the ordinance on November 19, 2012.

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	

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.

T. M. Franklin Mayor

Diane Rauh City Clerk