



Roll Call Number

14-0051

Agenda Item Number

28

Date January 13, 2014

RESOLUTION SETTING HEARING ON A REQUEST FROM KWIK TRIP, INC. D/B/A TOBACCO OUTLET PLUS REPRESENTED BY DONALD ZIETLOW (OFFICER) TO REZONE PROPERTY LOCATED AT 3301 EAST EUCLID AVENUE TO ALLOW A FUTURE CONDITIONAL USE APPLICATION FOR CONTINUED USE OF THE PROPERTY FOR A BUSINESS WHERE MORE THAN 40 PERCENT OF THE GROSS RECEIPTS FROM SALES MAY BE DERIVED FROM THE SALE OF BEER, WINE OR TOBACCO PRODUCTS

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 19, 2013, a motion was passed on a vote of 12-1-1 to recommend APPROVAL of a request from Kwik Trip, Inc. d/b/a Tobacco Outlet Plus represented by Donald Zietlow (Officer) to rezone property located at 3301 East Euclid Avenue from the "C-1" Neighborhood Retail Commercial District and "FW" Floodway District to the "C-2" General Retail and Highway-Oriented Commercial District, to allow a future Conditional Use application for continued use of the property for a business where more than 40 percent of the gross receipts from sales may be derived from the sale of beer, wine or tobacco products subject to the owner agreeing to the following conditions:

- A. Limit the rezoning of any property to the "C-2" District to only that portion of the subject property which is outside of the existing and proposed federally designated flood hazard areas.
- B. Rezone those portions of the subject property currently zoned to the "C-1" District and located inside of the existing and proposed federally designated flood hazard areas to the "FW" Floodway District.

(Prior to the hearing by the City Council on this matter the owner should be required to procure a legal description for such areas from a professional engineer.)

- C. The following uses of structures or land shall not be permitted on the subject property:
 - 1) Any business required to have a Class E Liquor License.
 - 2) Adult entertainment businesses.
 - 3) Delayed deposit services.
 - 4) Off-premises advertising signs.
 - 5) Taverns and nightclubs.
 - 6) Vehicle display lots.

WHEREAS, the subject property is owned by Grayslake Outparcels, LLC and is more specifically described as follows:

An irregular parcel of land in the Northwest 1/4, of the Northeast 1/4, of Section 29, Township 79 North, Range 23 West of the 5th P.M., all now in and forming a part of the City of Des Moines, Polk County, Iowa, more specifically described as follows:

Commencing at a point 718.2 feet South and 64.5 feet East of the North quarter-corner of said Section 29; thence South 87°14'30" East along the South right-of-way



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line of E. Euclid Avenue 622 feet; thence South 55°19'30" West 179.5 feet; thence North 87°14'30" West 89.1 feet; thence South 47°47'30" West 337.5 feet; thence North 00°21'30" East 127.2 feet; thence West 150.0 feet to the East right-of-way line of E. 33rd Street; thence North 03°26'30" East along the East right-of-way line of E. 33rd Street 228.0 feet to the Point of Beginning.

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

- 1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on January 27, 2014, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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(ZON2013-00186)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRAY, HENSLEY, MAHAFFEY, MOORE, VOSS, and 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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk