



Roll Call Number

14-0722

Agenda Item Number

41

Date May 5, 2014

APPLICATION OF DENISE CODY TO REZONE PROPERTY SHE OWNS IN THE VICINITY OF 912 43RD STREET, FROM THE "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO THE "R-2" ONE AND TWO-FAMILY RESIDENTIAL DISTRICT, TO ALLOW THE PROPERTY TO CONTINUE TO BE OCCUPIED AS A TWO-FAMILY DWELLING

WHEREAS, on April 21, 2014, by Roll Call No. 14-0616, it was duly resolved by the City Council that the application of Denise Cody (owner), represented by Curtis White (Power of Attorney), to rezone property she owns in the vicinity of 912 43rd Street, more fully described as follows:

Lot 35, Chamberlain Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein referred to as the "Property").

from the "R1-60" One-Family Low-Density Residential District to the "R-2" One and Two-Family Residential District, to allow the subject property to continue to be occupied as a two-family dwelling, be set down for hearing on May 5, 2014, at 5:00 P.M., in the Council Chambers of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on April 25, 2014, 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 Plan and Zoning Commission voted 9 - 0 in support of a motion to recommend that the proposed rezoning and the corresponding amendment to the comprehensive plan be denied.

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 are hereby sustained, and the hearing is closed.
2. The City Council hereby makes the following findings of fact regarding the proposed rezoning:



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- a. The Des Moines 2020 Community Character Land Use Plan designates the area in which the Property is located as Low Density Residential.
- b. The designation of the Property and surrounding area as Low Density Residential is appropriate and consistent with the predominate character of the surrounding area.
- c. Rezoning the Property to the One and Two-Family Residential District is not in conformance with the Des Moines 2020 Community Character Land Use Plan.
- d. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative A

MOVED by Hensley to adopt and **DENY** the proposed rezoning.

Alternative B

MOVED by _____ to continue the public hearing until May 19, 2013, at 5:00 p.m., in the Council Chambers, and to direct the City Manager and Legal Department to prepare the necessary legislation to **APPROVE** the rezoning subject to conditions acceptable to the City and the applicant.

FORM APPROVED:

Roger K Brown

Roger K. Brown, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| 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