



Roll Call Number

14-1101

Agenda Item Number

59

Date July 14, 2014

RESOLUTION CLOSING HEARING ON REQUEST FROM DRAKE UNIVERSITY (OWNER), REPRESENTED BY DEBORAH NEWSOME (OFFICER), TO REZONE PROPERTY LOCATED AT 2700 UNIVERSITY AVENUE FROM LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT TO AN AMENDED LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT TO PERMIT ACCESSORY ALCOHOLIC BEVERAGE SALES AND SERVICE RELATED TO PRIVATE EVENTS OPERATED BY DRAKE UNIVERSITY

WHEREAS, on July 24, 2000, by Roll Call No. 00-3209, the City Council adopted Ordinance 13,840 to rezone property located at 2700 University Avenue ("Property") and multiple surrounding properties from "R-3" Multiple-Family Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District, subject to various conditions including Condition No. A(16) that prohibits any business holding a liquor license, beer or wine permit which is not operated as either a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer, or a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; and

WHEREAS, on June 23, 2014, by Roll Call No. 14-0954, it was duly resolved by the City Council that the application of Drake University (owner), represented by Deborah Newsome (officer), to rezone the Property, as legally described below, be set down for hearing on July 14, 2014, at 5:00 P.M., in the Council Chamber at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on July 3, 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 Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the property located at 2700 University Avenue ("Property") and legally described as:

The South 41 feet of Lot 37, and all of Lots 38, 39, and 40 of DRAKE UNIVERSITY ADDITION, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

from Limited "NPC" Neighborhood Pedestrian Commercial District to an amended Limited "NPC" Neighborhood Pedestrian Commercial District to permit accessory alcoholic beverage sales and service related to private events operated solely by Drake University or its approved vendor, and to amend the property zoning to reflect the current City Code requirements related to limited retail and food establishments, by amending Condition No. A(16) of Ordinance 13,840 with all other conditions of Ordinance 13,840 continuing to apply to the Property, as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property which is binding upon the owner and its successors, heirs and assigns as follows:

16. Any business holding a liquor license, beer or wine permit which is not operated as either:

(continued)

Date June 9, 2014

-2-

- a. ~~a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer; or a limited retail or food establishment at least 40% of whose gross income is derived from the sale of merchandise other than liquor, wine, beer or tobacco products; or~~
- b. ~~a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or~~
- c. ~~an assembly/reception hall use limited to private events operated solely by Drake University, or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.~~

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 of the Property to an amended Limited "NPC" Neighborhood Pedestrian Commercial District as set forth above are hereby overruled, and the hearing is closed.
2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by Hensley to adopt.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

(ZON2014-00078)

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin
Mayor