

★ Roll Call Number

14-1402

Agenda Item Number

40

Date September 8, 2014

RESOLUTION HOLDING HEARING ON REQUEST FROM 3 STOOGES, LLC (PURCHASER), REPRESENTED BY CHRIS FISCHELS (OFFICER), TO REZONE PROPERTY LOCATED AT 3703, 3719, AND 3727 SOUTHEAST 14TH STREET FROM “R1-60” ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED “C-2” GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT, TO ALLOW THE SUBJECT PROPERTY TO BE REDEVELOPED FOR A RETAIL/OFFICE COMMERCIAL CENTER AND RESTAURANT

WHEREAS, on August 25, 2014, by Roll Call No. 14-1293, the City Council received and filed the recommendation from the City Plan and Zoning Commission, by a vote of its members of 10-0, to APPROVE a request from 3 Stooges, LLC (purchaser), represented by Chris Fischels (officer), to rezone property located at 3703, 3719, and 3727 Southeast 14th Street (“Property”) from “R1-60” One-Family Low-Density Residential District to Limited “C-2” General Retail and Highway-Oriented Commercial District, to allow the Property to be redeveloped for a retail/office commercial center and restaurant, subject to the owner agreeing to the following conditions:

1. The easternmost 120 feet of the Property shall remain “R1-60” One-Family Low-Density Residential District.
2. Provision of an access easement for the existing driveway to the property at 3801 SE 15th Street.
3. Any commercial development which includes the Property shall be subject to the following conditions and restrictions:
 - a. The primary exterior materials of any building placed to a commercial use shall consist of brick, textured block or tile or similar materials.
 - b. There shall be no vehicular access from the development through any residentially zoned property.
 - c. Vehicular access to the Property shall be provided by means of an extension of the frontage road from where it exists to the south of the Property, and such frontage road shall be extended to the north boundary of the Property. The owners of the Property shall provide a cross access easement to permit the land to the north of the Property to use the frontage road.
 - d. The Property shall not be used for the sale of used motor vehicles; and

WHEREAS, on August 25, 2014, by Roll Call No. 14-1293, it was duly resolved by the City Council that the application of 3 Stooges, LLC to rezone the Property, as legally described below, be set down for hearing on September 8, 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, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and

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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 3703, 3719, and 3727 Southeast 14th Street, legally described as follows, which description has been revised from the legal description set forth in Roll Call No. 14-1293 to address and incorporate the Plan and Zoning Commission recommendation set forth above that the easternmost 120 feet of the site shall remain "R1-60" One-Family Low-Density Residential District:

EXCEPT THE WEST 35.5 FEET, LOTS 5 AND THE SOUTH 22 FEET OF LOT 4 IN INDIANOLA ACRES, AN OFFICIAL PLAT; AND

EXCEPT THE WEST 35.5 FEET, LOT 8 IN INDIANOLA ACRES, AN OFFICIAL PLAT; AND

ALL OF PARCEL C AS RECORDED IN BOOK 8137 PAGE 593 IN THE RECORDER'S OFFICE OF POLK COUNTY, IOWA, EXCEPT THE EAST 121 FEET OF THAT PART OF PARCEL C LOCATED IN LOT 21, OFFICIAL PLAT OF THE NW ¼ OF SECTION 23, T78N, R24W OF THE 5TH P.M., AND EXCEPT THAT PART OF PARCEL C PREVIOUSLY REZONED ON JANUARY 8, 2001 BY ORDINANCE NO. 13,902;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow the Property to be redeveloped for a retail/office commercial center and restaurant, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owners of the Property, and by purchaser 3 Stooges LLC, and which is binding upon the owner and their respective successors and assigns.

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 Limited "C-2" General Retail and Highway-Oriented Commercial District as set forth above are hereby overruled, and the hearing is closed.

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- 2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District as set forth above is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED by Gatto to adopt.

FORM APPROVED:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

(ZON2014-00126)

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

City Clerk