

★ Roll Call Number

14-1806

Agenda Item Number

48B

Date November 17, 2014

RESOLUTION HOLDING HEARING ON REQUEST FROM CURLY TOP, LLC (PURCHASER), REPRESENTED BY TIM MAURO (OFFICER), TO REZONE PROPERTY LOCATED AT 2455 MARTIN LUTHER KING, JR. PARKWAY FROM "C-2" GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT AND "M-3" LIMITED INDUSTRIAL DISTRICT TO "R-4" HIGH DENSITY RESIDENTIAL DISTRICT

WHEREAS, on October 20, 2014, by Roll Call No. 14-1630, it was duly resolved by the City Council that the application of Curly Top, LLC (purchaser), represented by Tim Mauro (officer), to rezone property located at 2455 Martin Luther King Jr. Parkway ("Property"), owned by Arthur and Sandra Anderson, from "C-2" General Retail and Highway-Oriented Commercial District and "M-3" Limited Industrial District to "R-4" High Density Residential District, to allow a four-story 55-unit multiple-family senior living apartment building, be set down for hearing on November 17, 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

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 City Plan and Zoning Commission has advised that at a public hearing held on November 6, 2014, its members voted 7-2 in support of a motion to recommend **APPROVAL** of the above-described application of Curly Top, LLC (purchaser) to rezone the Property from "C-2" General Retail and Highway-Oriented Commercial District and "M-3" Limited Industrial District to Limited "R-4" High Density Residential District, to allow a four-story 55-unit multiple-family senior living apartment building, subject to the purchaser and owners agreeing to the following conditions:

1. Any multiple-family residential use of the Property shall be limited to "housing for older persons" as defined by federal law;
2. The density of any future residential development shall be dependent upon an approved Site Plan; however, the density of any development shall not exceed 35 dwelling units per acre;
3. Any development of multiple-family residential dwellings shall be in accordance with a Site Plan under the Design Guidelines for Multiple-Family Residential;
4. Any multiple-family residential building shall have at least one primary entrance oriented toward Martin Luther King Jr. Parkway;
5. Any building that is greater than three stories in height shall be sided on the entire ground floor and second floor with brick, stone or masonry materials with the balance of the building sided with brick, stone, masonry, architectural metal and/or cement board materials;

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6. Any building that is three stories or less in height shall be sided on the entire ground floor with brick, stone or masonry materials with the balance of the building sided with brick, stone, masonry, architectural metal and/or cement board materials;
7. Any trash enclosure on the site shall conform to the standards of the Zoning Ordinance and shall be comprised of durable materials that complement the principal building with steel gates; and
8. Any Site Plan for development shall provide public vehicular traffic cross-access easement to allow ingress/egress through the subject property to M.L. King Jr. Parkway from the adjoining properties to the south; 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 2455 Martin Luther King, Jr. Parkway, legally described as:

Parcel F, Book 7741 Page 716, being part of Lot 21 in the Official Plat of the East Half of the Northwest Quarter and the Southwest Quarter of the Southeast Quarter and Government Lots 3, 4, 5 and 6 of Section 28, Township 79, Range 24, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "C-2" General Retail and Highway-Oriented Commercial District and "M-3" Limited Industrial District to Limited "R-4" High Density Residential District, to allow a four-story 55-unit multiple-family senior living apartment building, 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, which is binding upon the purchaser, the owners, and their respective successors, heirs and assigns.

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

1. The attached communication from the Plan and Zoning Commission is hereby received and filed.
2. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to Limited "R-4" High Density Residential District with conditions as set forth above are hereby overruled, and the hearing is closed.
3. The City Council hereby makes the following findings of fact regarding the proposed rezoning:
 - a. Existing access to affordable housing that meets the needs of senior residents and that provides protection of the safety and privacy of seniors is limited in the greater Des Moines area, and is anticipated to become further limited as the population of senior residents increases.
 - b. The condition limiting multiple-family residential use of the Property to "housing for older persons" as defined by federal law is necessary to preserve, protect and encourage senior housing in the City.
 - c. The condition limiting multiple-family residential use of the Property to "housing for older persons" as defined by federal law is further necessary to accommodate traffic flow onto Martin Luther King,

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Jr. Parkway, as such housing is anticipated to have a lesser impact on traffic entering and exiting Martin Luther King, Jr. Parkway from the Property than would non-restricted multiple-family housing.

- 4. The proposed rezoning of the Property to Limited "R-4" High Density Residential District with conditions as set forth above is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED by Gray to adopt.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZON2014-00199)

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