



Roll Call Number

15-0244

Agenda Item Number

46

Date February 9, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM LEONARDO DIAZ (CONTRACT PURCHASER) TO REZONE PROPERTY LOCATED AT 1123 MAURY STREET AND 810 SOUTHEAST 12TH STREET FROM "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "C-2" GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT

WHEREAS, on January 12, 2015, by Roll Call No. 15-0033, the City Council received and filed a communication from the City Plan and Zoning Commission stating that its members voted 7-3 in support of a motion to recommend **APPROVAL** of a request from Leonardo Diaz and Raquel Diaz (contract purchasers) to rezone real property locally known as 1123 Maury Street and 810 Southeast 12th Street ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to bring the existing general motor vehicle repair garage use into conformance with paving and landscaping requirements and to allow for mobile vendor uses, subject to the owners agreeing to the following conditions:

1. Prohibition on the use of the Property for adult businesses; gas stations/convenience stores; businesses selling liquor, wine, or beer; vehicle display lots, off-premises advertising signs; pawn brokerages; and delayed deposit services; and
2. Any development of the site expansion of the existing vehicle repair use, or use of the Property for a licensed mobile vendor, shall require that a Site Plan be reviewed and approved by the Permit and Development Center whereby the existing repair garage use is brought into conformance with paving and landscaping requirements, and to include all necessary improvements for location of a mobile vendor including dedicated parking and paved areas for the vendor and seating areas; and

WHEREAS, on January 12, 2015, by Roll Call No. 15-0033, it was duly resolved by the City Council that the application of Leonardo Diaz and Raquel Diaz (contract purchasers) to rezone the Property, as legally described below, be set down for hearing on January 26, 2015 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, on January 26, 2015, by Roll Call No. 15-0136, the City Council opened and continued the public hearing in order to allow more time to obtain the executed Acceptance of Rezoning Conditions from the contract seller, Equity Trust Company, Custodian, FBO Frank E. Weinstein IRA, which Acceptance has since been provided; and

WHEREAS, in accordance with said notice and continuance, 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 1123 Maury Street and 810 Southeast 12th Street, legally described as:

All of Lots 8, 9 and 10 of Block 10; that part of the North/South alley lying East of and adjoining Lot 1 of Block 10; and the East ½ of the vacated North/South alley lying West of and adjoining said Lots 8 and 9, except a triangular parcel of land in the Northeast corner of said Lot 10 that is within the area described as follows: Beginning at the Northeast corner of said Lot 10, thence westerly along the North line of said Lot

(continued)

★ Roll Call Number

15-0244

Agenda Item Number

46

Date February 9, 2015

-2-

10 a distance of 40 feet; southeasterly to a point on the east line of said Lot 10 that is 12 feet southerly of the point of beginning, thence Northerly to the point of beginning, all in ALLEN'S SECOND ADDITION TO DES MOINES, an Official Plat, 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 bring the existing general motor vehicle repair garage use into conformance with paving and landscaping requirements and to allow for mobile vendor uses, 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 owners and each owner's successors, heirs 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, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial 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 Gatto TO DENY.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2014-00228)

| 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