



Roll Call Number

15-0426

Agenda Item Number

62B

Date March 9, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM DES MOINES PEDIATRIC AND ADOLESCENT CLINIC, PLC TO REZONE PROPERTY LOCATED AT 2301 BEAVER AVENUE, 2313 BEAVER AVENUE, AND 2300 40TH PLACE FROM "C-0" COMMERCIAL-RESIDENTIAL DISTRICT AND "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "C-1" NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT

WHEREAS, on February 23, 2015, by Roll Call No. 15-0293, the City Council received and filed a communication from the Plan and Zoning Commission advising that a public hearing was held by the Commission on February 5, 2015, regarding a request from Des Moines Pediatric and Adolescent Clinic, PLC ("Owner"), represented by Brian Waggoner, M.D. (officer), to rezone property locally known as 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place (collectively "Property") from "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow expansion and reconstruction of the existing medical clinic parking lot and site improvements; and

WHEREAS, said communication further advised that a majority of the members of the City Plan and Zoning Commission in attendance at the meeting were unable to agree upon a recommendation regarding the proposed rezoning; and

WHEREAS, the Owner has agreed to the following conditions on the proposed rezoning, as set forth in an executed Acceptance of Rezoning Ordinance:

1. Compliance with all applicable Site Plan regulations including provision of all required landscaping and screening with a 6-foot minimum height solid wooden fence to provide the required screening along the north and east property lines, and a refuse collection container enclosure that complies with current standards for masonry construction and solid metal gates;
2. Any replacement or additional signs on the premises may only be Type A signs (indirectly illuminated only);
3. Prohibit hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.;
4. The following uses are prohibited:
 - a) Bakeries;
 - b) Delicatessens;
 - c) Gas stations;
 - d) Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments);
 - e) Laundrettes and coin-operated dry cleaning establishments;
 - f) Locker plants;
 - g) Restaurants;
 - h) Theaters;
 - i) Automotive accessory and parts stores;
 - j) Lawn mower/small-engine repair;
 - k) Upholstery shops; and

(continued)



Roll Call Number

15-0426

Agenda Item Number

62B

Date March 9, 2015

-2-

WHEREAS, in addition to the above-listed conditions, the Owner has suggested the following supplemental conditions on the proposed rezoning, also set forth in an executed Acceptance of Rezoning Ordinance:

1. The following uses are prohibited:...
 - l) Pharmacies; and
 - m) Banks; and
2. In addition to the foregoing conditions, any structure(s) located on that portion of the Property locally known as 2300 40th Place and existing at the date of recording of the Acceptance of Rezoning Conditions shall be used solely for residential purposes, until such time as said structure(s) are demolished or destroyed; and

WHEREAS, on February 23, 2015, by Roll Call No. 15-0293, it was duly resolved by the City Council that the application of Des Moines Pediatric and Adolescent Clinic, PLC, to rezone the Property, as legally described below, be set down for hearing on March 9, 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, 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 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place, legally described as:

Lot 9 (except the West 10 feet thereof); Lots 10, 11 and 12 (except that part conveyed to the City of Des Moines in Book 1434, Page 177 and Book 4118, Page 477); and Lot 13 (except the South 8 feet thereof); all in Block 1 of Broadmoor, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow expansion and reconstruction of the existing medical clinic parking lot and site improvements, subject to the conditions stated above 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 the owner's successors, heirs and assigns.

(continued)



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15-0426

Agenda Item Number

62B

Date March 9, 2015

-3-

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-1" Neighborhood Retail 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-1" Neighborhood Retail 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 Gray TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2015-00003)

NOTE: Six affirmative votes are required to approve the proposed rezoning, due to the written protest against the rezoning as signed and submitted by owners of twenty percent or more of the property which is located within 200 feet of the exterior boundaries of the property to be rezoned. Des Moines City Code §134-3(ii).

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE		✓		
TOTAL	6	1		

MOTION CARRIED

APPROVED

T. M. Franklin Council 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