



Roll Call Number

15-0626

Agenda Item Number

46

Date April 6, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM STRATFORD HOLDING, LLC TO REZONE PROPERTY LOCATED AT 1372 EAST 14TH STREET FROM "C-1" NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT TO "C-2" GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT

WHEREAS, on March 23, 2015, by Roll Call No. 15-0497, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on March 5, 2015, its members voted 9-0 in support of a motion to recommend DENIAL of a request from Stratford Holding, LLC (owner), represented by Mark Langfan (officer), to rezone real property locally known as 1372 East 14th Street from "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or liquor store; and

WHEREAS, on March 23, 2015, by Roll Call No. 15-0497, it was duly resolved by the City Council that the application of Stratford Holding, LLC, to rezone the Property, legally described as follows, be set down for hearing on April 6, 2015 at 5:00 p.m. in the Council Chambers at City Hall:

Lots 444 and 445 in POLK & HUBBELL'S ADDITION TO THE TOWN OF CAPITAL PARK, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; 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 rezoning; 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.

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 statements of interested persons and arguments of counsel, any and all comments for and against the proposed rezoning of the Property to "C-2" General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or a liquor store, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by Mahaffey to adopt and DENY the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning:

- a. The City Plan and Zoning Commission voted 9-0 to recommend denial of the requested rezoning of the Property to "C-2" General Retail and Highway-Oriented Commercial District, to allow the right to request a Conditional Use Permit for the existing business to continue to sell alcoholic liquor as either a limited food/retail sales establishment or a liquor store.
- b. The proposed rezoning is not in conformance with the character of the adjoining residential neighborhood, due to the proximity of single-family residences and safety concerns, and is not supported by the Northeast Neighbors, Inc. consortium of neighborhood associations.

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- c. As currently zoned, the owner may request a Conditional Use Permit to continue sales of wine and beer on the Property as a limited food/retail sales establishment.
- d. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by _____ to continue the public hearing until April 20, 2015, at 5:00 p.m. in the Council Chambers, and to direct the City Manager and Legal Department to prepare the necessary legislation to APPROVE the rezoning subject to conditions acceptable to the City and the owner.

FORM APPROVED:

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

(ZON2015-00030)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Commission's recommendation for denial. Des Moines City Code §134-4.

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

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.

Chilton L. Hensley
 Mayor

Diane Fauh
 City Clerk