



Roll Call Number

15-0759

Agenda Item Number

32B

Date May 4, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM ARNOLD DEWITT (OWNER) TO REZONE PROPERTY LOCATED IN THE VICINITY OF 3917 MAHASKA AVENUE FROM "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "C-2" GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT

WHEREAS, on January 26, 2015, by Roll Call No. 15-0107, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 15, 2015, its members voted 9-1 in support of a motion to recommend APPROVAL of a request from Arnold DeWitt (owner) to rezone real property located in vicinity of 3917 Mahaska Avenue, locally known as 3917 Mahaska Avenue and Polk County District/Parcel No. 060/00668-000-000 ("Property"), from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow expansion of the existing mini-warehouse complex, subject to the owner agreeing to the following conditions:

- 1. Only the uses of structures or land listed below shall be permitted upon the Property:
a. Any use allowed in the "R1-60" Commercial Residential District.
b. Mini-warehouse self-storage complex.
2. A development of the Property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
a. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
b. The remaining sides of any building shall be in earth-tone colors.
c. No storage units shall have doors facing towards Mahaska Avenue.
d. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
e. No storage units within the easternmost building on the site shall have doors facing toward the east.
f. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
g. There shall be no signs other than internal directional signs on the Property.
h. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the Property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
i. A minimum 25-foot foot wide building setback shall be maintained along the eastern boundary of the Property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
j. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
k. No surface water shall be released onto any adjoining residential property.
l. Release the easement on Robert Anderson's property at 1232 E. 40th Street.
m. No exterior lighting shall be placed on building faces that do not directly abut a drive; and

WHEREAS, Arnold DeWitt also has agreed to the following additional conditions, which are included in the Acceptance of Rezoning Ordinance:

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- n. All buildings on the Property shall be one-story buildings, and shall not exceed 14 feet in height.
- o. The cumulative area of all buildings on the Property shall not exceed 38,000 square feet; and

WHEREAS, on January 26, 2015, by Roll Call No. 15-0107, it was duly resolved by the City Council that the application of Arnold DeWitt (owner) to rezone the Property, as legally described below, be set down for hearing on February 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, on February 9, 2015, by Roll Call No. 15-0249, the City Council opened and continued the public hearing on the rezoning request to March 23, 2015 at 5:00 p.m.; and

WHEREAS, on March 23, 2015, by Roll Call No. 15-0528, the City Council opened and continued the public hearing on the rezoning request to April 6, 2015 at 5:00 p.m.; and

WHEREAS, on April 6, 2015, by Roll Call No. 15-0610, the City Council opened and continued the public hearing on the rezoning request to April 20, 2015 at 5:00 p.m.; and

WHEREAS, on April 20, 2015, by Roll Call No. 15-0690, the City Council opened and continued the public hearing on the rezoning request to May 4, 2015 at 5:00 p.m.; 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 Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 3917 Mahaska Avenue and Polk County District/Parcel No. 060/00668-000-000, legally described as:

Lots 101, 102, and 103 in BROADACRE, 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 allow expansion of the existing mini-warehouse complex, 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 their successors, heirs and assigns.

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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 Mahaffey TO ADOPT.

MOTION FAILED.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2014-00230)

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	4	3		

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.

Diane Rauh

City Clerk

T. M. Franklin Council Mayor