



Roll Call Number

15-1451

Agenda Item Number

45

Date August 24, 2015

RESOLUTION HOLDING PUBLIC HEARING ON APPEAL BY EYCHANER PROPERTIES, INC. OF THE DENIAL OF A SITE PLAN FOR A PROPOSED OFF-STREET PARKING LOT AT 444 SOUTHWEST 5TH STREET

WHEREAS, on July 13, 2015, Community Development staff administratively denied a site plan request from Eychaner Properties, Inc. (owner), represented by Rich Eychaner, on real property locally known as 444 Southwest 5th Street, to allow development of an off-street parking lot with an entrance/exit from Southwest 5th Street, which is designated as a downtown pedestrian corridor; and

WHEREAS, said administrative denial was based on staff's determination that the site plan fails to conform to the design guidelines within the "D-O" Downtown Overlay District, as contained in Municipal Code Section 82-214.9, as a surface parking lot use was determined inconsistent with the "What's Next Downtown Plan" and was determined to be an auto-dominant use incompatible with the designation of Southwest 5th Street as a downtown pedestrian corridor; and

WHEREAS, Municipal Code Section 82-208(c) provides that an affirmative vote of at least eight (8) Plan and Zoning Commission members shall be necessary to overturn or modify said administrative denial; and

WHEREAS, on August 7, 2015, the Plan and Zoning Commission considered an appeal by Eychaner Properties, Inc. of the administrative decision by Community Development staff to deny the site plan; and

WHEREAS, the Commission first voted 2-7-1 on a motion to uphold the administrative decision by Community Development staff; and

WHEREAS, thereafter, the Commission voted 7-3 on a subsequent motion to approve the site plan, subject to conditions that additional interior and perimeter parking lot landscaping be provided and existing overhead utilities along Southwest 5th Street be undergrounded, which vote failed to overturn the administrative denial of the site plan in accordance with Municipal Code Section 82-208(c); and

WHEREAS, Eychaner Properties, Inc. has timely appealed to the City Council pursuant to Municipal Code Section 82-210, seeking to have the administrative decision by Community Development staff and the determination of the Plan and Zoning Commission overturned; and

WHEREAS, on August 10, 2015, by Roll Call No.15-1391, it was duly resolved by the City Council that the appeal be set down for hearing on August 24, 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 appeal; and

WHEREAS, in accordance with said notice, those interested in said appeal and the proposed site plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and

(continued)

★ Roll Call Number

15-1451

Agenda Item Number

45

Date August 24, 2015

-2-

WHEREAS, Section 82-210 of the Des Moines Municipal Code provides that upon appeal from the Plan and Zoning Commission, a majority vote of the City Council shall be necessary to overturn the action of the Plan and Zoning Commission regarding a site plan.

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

1. That the attached communication of the Plan and Zoning Commission is hereby received and filed.
2. Upon due consideration of the facts and any statements of interested persons and arguments of counsel, any and all arguments and objections to the administrative decision by Community Development Department staff to deny a site plan, and the Plan and Zoning Commissions determinations in relation thereto, from Eychaner Properties, Inc. (owner), represented by Rich Eychaner, on real property locally known as 444 Southwest 5th Street, to allow development of an off-street parking lot with an entrance/exit from Southwest 5th Street, which is a designated downtown pedestrian corridor, are hereby received, and the public hearing on the appeal and proposed site plan is closed.

MOVED BY Hensley to ~~APPROVE~~ APPROVE WITH THE FOLLOWING STATED CONDITIONS / ~~DENY~~ the proposed site plan as requested by Eychaner Properties, LLC, subject to the conditions listed in the Plan and Zoning Commission recommendation excluding the requirement to underground overhead utilities; future development of the property will require undergrounding overhead utilities.

FORM APPROVED:

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

(10-2015-7.137)

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

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