



Roll Call Number

15-1553

Agenda Item Number

60B

Date September 14, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM ROBERT J. ELLIS AND REBECCA ORR TO APPROVE PUD CONCEPTUAL PLAN AND TO REZONE PROPERTY LOCATED AT 4111, 4117 AND 4121 MCKINLEY AVENUE

WHEREAS, on August 24, 2015, by Roll Call No. 15-1428, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 6, 2015, its members voted 10-0-1 in support of a motion to recommend **DENIAL** of a request from Robert J. Ellis and Rebecca Orr (owners) to rezone real property locally known as 4111, 4117 and 4121 McKinley Avenue ("Property") from "R1-80" One-Family Residential District to "PUD" Planned Unit Development District to allow development of the site with 12 dwelling units with 6 single-family semi-detached dwellings, and of a request for approval of a PUD Conceptual Plan related thereto, which communication has been updated and revised as attached hereto; and

WHEREAS, on August 24, 2015, by Roll Call No. 15-1428, it was duly resolved by the City Council that the application of Robert J. Ellis and Rebecca Orr to rezone the Property, legally described as follows, and to approve a PUD Conceptual Plan related thereto, be set down for hearing on September 14, 2015 at 5:00 p.m. in the Council Chamber at City Hall:

PARCEL C OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE AND ALSO EXCEPT PARCEL D OF LOT 11, SERENDIPITY PLAT 4 AS REFLECTED IN A PLAT OF SURVEY FILED SEPT. 6, 2006 IN BOOK 11837, PAGE 885 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD.

AND

PARCEL B OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD.

AND

PARCEL A OF LOT 11, SERENDIPITY PLAT 4, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AS SHOWN ON PLAT OF SURVEY FILED MAY 15, 2000, RECORDED IN BOOK 8494, PAGE 685 OF THE POLK COUNTY RECORDER'S OFFICE, EXCEPT THAT PART DEEDED TO THE CITY OF DES MOINES



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IOWA BY COURT OFFICER DEED FILED IN BOOK 9338, PAGE 48 AND BY QUIT CLAIM DEED FILED IN BOOK 9338, PAGE 59 OF THE POLK COUNTY RECORDER'S OFFICE.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD; 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 PUD Conceptual Plan; and

WHEREAS, in accordance with said notice, those interested in said proposed rezoning and PUD Conceptual Plan, 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. The attached revised communication from 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 comments for and against the proposed rezoning of the Property to "PUD" Planned Unit Development District to allow development of the site with 12 dwelling units with 6 single-family semi-detached dwellings, and for and against the proposed PUD Conceptual Plan related thereto, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by Hensley to adopt and DENY the proposed rezoning and proposed PUD Conceptual Plan, and to make the following findings of fact regarding the proposed rezoning and Plan:

- a. The City Plan and Zoning Commission voted 10-0-1 to recommend denial of the requested rezoning of the Property to "PUD" Planned Unit Development and of the requested approval of a PUD Conceptual Plan related thereto, to allow development of the site with 12 dwelling units with 6 single-family semi-detached dwellings.
- b. The proposed rezoning and Plan are not compatible with the Low-Density Residential future land use designation in the Des Moines' 2020 Community Character Plan, and an amendment to the Low/Medium-Density Residential designation is not appropriate given the single-family residential character of the neighborhood and potential for higher levels of stormwater drainage issues, property value impacts, and other impacts for adjoining areas.
- c. The Southwestern Hills Neighborhood Association is opposed to the proposed rezoning and Plan.
- 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.



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Alternative B

~~MOVED by _____ to continue the public hearing until September 28, 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 and the PUD Conceptual Plan subject to conditions acceptable to the City and the owner.~~

FORM APPROVED:

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

(ZON2015-00120)

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

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.

MOTION CARRIED

APPROVED

T. M. Franklin Mayor

Diane Rauh City Clerk