

★ Roll Call Number

15-1559

Agenda Item Number

62B

Date September 14, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM WILLIAM H. WHEELER  
TO REZONE PROPERTY LOCATED AT 3601 6<sup>TH</sup> AVENUE**

**WHEREAS**, on August 24, 2015, 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 11-0 in support of a motion to recommend **DENIAL** of a request from William H. Wheeler (owner) to rezone real property locally known as 3601 6<sup>th</sup> Avenue ("Property") from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District to allow conversion of the building to a manufacturing use of preparing, bottling, packaging, and distributing salad dressing; and

**WHEREAS**, on August 24, 2015, by Roll Call No. 14-1431, it was duly resolved by the City Council that the application of William H. Wheeler to rezone the Property, legally described as follows, be set down for hearing on September 14, 2015 at 5:00 p.m. in the Council Chamber at City Hall:

Lot 13 of Block 22 in HIGHLAND PARK, now included in and forming a part of the City of Des Moines, 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 Limited "M-1" Light Industrial District, to allow conversion of the building to a manufacturing use of preparing, bottling, packaging, and distributing salad dressing, 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 11-0 to recommend denial of the requested rezoning of the Property to Limited "M-1" Light Industrial District, to allow conversion of the building to a manufacturing use.

( continued )

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- b. The Highland Park Neighborhood Plan contemplates that the Property will remain in the character of the surrounding pedestrian-oriented commercial area.
- c. The character of the surrounding area is best suited by occupancies which serve pedestrian retail traffic, and thus the proposed rezoning is not consistent with the character of the surrounding commercial area.
- 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 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 subject to conditions acceptable to the City and the owner.~~

FORM APPROVED:

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

(ZON2015-00130)

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	7			

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