

★ Roll Call Number

15-2173

Agenda Item Number

56

Date December 21, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM TONJA BOGGS FOR THE 6TH AMENDMENT TO THE SOMERSET PUD CONCEPTUAL PLAN RELATING TO PROPERTY LOCATED AT 6615 SOUTHEAST 3RD STREET

WHEREAS, on December 7, 2015, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 19, 2015, its members voted 8-0 in support of a motion to recommend **DENIAL** of a request from Tonja Boggs (owner) for the 6th Amendment to the Somerset PUD Conceptual Plan relating to real property locally known as 6615 Southeast 3rd Street ("Property"), to allow the single-family dwelling owner to conduct a 24-hour commercial child care business for up to 12 minors as an accessory home occupation; and

WHEREAS, on December 7, 2015, by Roll Call No. 15-2058, it was duly resolved by the City Council that the application of Tonja Boggs for the 6th Amendment to the Somerset PUD Conceptual Plan relating to real property locally known as 6615 Southeast 3rd Street, legally described as follows, be set down for hearing on December 21, 2015 at 5:00 p.m. in the Council Chamber at City Hall:

Lot 50 in SOMERSET, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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 Somerset PUD Conceptual Plan; and

WHEREAS, in accordance with said notice, those interested in said proposed amendment to the Somerset 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. 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 6th Amendment to the Somerset PUD Conceptual Plan are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by Gatto to adopt and **DENY** the proposed 6th Amendment to the Somerset PUD Conceptual Plan, and to make the following findings of fact regarding the proposed amendment:

(continued)

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- a. The City Plan and Zoning Commission voted 8-0 to recommend denial of the requested 6th Amendment to the Somerset PUD Conceptual Plan relating to real property known as 6615 Southeast 3rd Street, to allow the single-family dwelling owner to conduct a 24-hour commercial child care business for up to 12 minors as an accessory home occupation.
- b. A childcare business for up to 12 unrelated children is not incidental to or secondary to the residential use of the premises. The level of traffic generated as a result of having a childcare business for more than six (6) children is not typical of a single-family residential use and can be detrimental to the use and enjoyment of surrounding residential properties.
- c. To wait 30 days to commence enforcement proceedings.

Alternative B

MOVED by _____ to continue the public hearing until January 11, 2016, 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 proposed 6th Amendment to the Somerset PUD Conceptual Plan subject to conditions acceptable to the City and the owner.

FORM APPROVED:



Lawrence R. McDowell
Deputy City Attorney

(ZON2015-00199)

NOTE: Six affirmative votes are required to approve the proposed amendment 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

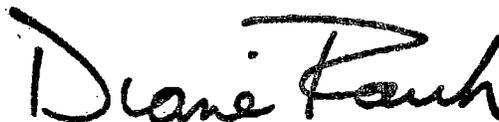
APPROVED


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.



City Clerk