



Roll Call Number

16-0431

Agenda Item Number

57B

Date March 7, 2016

RESOLUTION HOLDING HEARING ON REQUEST FROM GEORGE M. CLAYTON TO REZONE PROPERTY LOCATED AT 5311 SOUTHWEST 9TH STREET

WHEREAS, on February 22, 2016, by Roll Call No. 16-0275, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 4, 2016, its members voted 11-1 in support of a motion to recommend DENIAL of a request from George M. Clayton (owner) to rezone the eastern portion of the real property locally known 5311 Southwest 9th Street ("Property") from "R1-60" One-Family Residential District to "C-2" General Retail and Highway-Oriented Commercial District to allow for retention and use of an existing accessory structure to be used in common with the commercial use on the western portion of the Property; and

WHEREAS, on February 22, 2016, by Roll Call No. 16-0275, it was duly resolved by the City Council that the application of George M. Clayton to rezone the Property, legally described as follows, be set down for hearing on March 7, 2016 at 5:00 p.m. in the Council Chamber at City Hall:

Lot 12 (except the North 75 feet thereof and except the East 400 feet thereof) in DU PONT PLACE, an Official Plat, all included in and forming a part of the City of Des Moines, Polk County, Iowa; 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 "C-2" General Retail and Highway-Oriented Commercial District to allow for use of the existing accessory structure in common with the commercial use on the western portion of the Property, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by Gatto 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 11-1 to recommend denial of the requested rezoning of the Property to "C-2" General Retail and Highway-Oriented Commercial District to allow for use of the existing accessory structure for commercial purposes.
b. Additional "C-2" District zoning requires greater separation from residential uses than available at the Property due to the anticipated higher levels of noise, traffic, and other impacts, and the limited ability to provide the minimum required off-street parking spaces.
c. 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.

(continued)

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Alternative B

~~MOVED by _____ to continue the public hearing until March 21, 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 rezoning subject to conditions acceptable to the City and the owner.~~

MOVED by Gatto to adopt.

FORM APPROVED:

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

(ZON2015-00226)

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	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

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