



Roll Call Number

16-1659

Agenda Item Number

60B

Date September 26, 2016

RESOLUTION HOLDING HEARING ON REQUEST FROM CADLE'S WAKONDA, LLC TO REZONE PROPERTY LOCATED AT 4301 FLEUR DRIVE

WHEREAS, on September 12, 2016, by Roll Call No. 16-1516, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 18, 2016, its members voted 10-0 in support of a motion to recommend APPROVAL of a request from Cadle's Wakonda, LLC (owners), represented by David Marquette (officer), to rezone property located at 4301 Fleur Drive ("Property") from "R-3" Multiple-Family Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District, to allow for development of the Property with loading area, drainage improvements, and off-street parking area as part of development of a 30,134-square foot general food sales establishment (Fareway) on the commercially-zoned portion of the subject property, subject to the following conditions:

- 1. Any redevelopment of the Property for any commercial use or purpose shall only be permitted as part of a Site Plan approval by the Permit and Development Center;
2. Any Site Plan submitted for development upon the Property shall bring the entire site into conformance with the City's Landscape Standards as applicable to "C-2" Districts;
3. Any Site Plan submitted for development upon the Property shall provide a minimum 5-foot wide public sidewalk along all segments of Fleur Drive frontage;
4. Any Site Plan submitted for development upon the Property shall provide a pedestrian route through the site from that sidewalk to the main entrance of any new structure, to the satisfaction of the City's Planning Administrator;
5. Any Site Plan submitted for development upon the Property shall provide a pedestrian connection and a vehicular connection with the multiple-family residential development to the east, to the satisfaction of the City's Planning Administrator;
6. Construction of any building on the Property shall be in general conformance with the architectural character elevations submitted as part of the rezoning application, to the satisfaction of the City's Planning Administrator; and
7. Any future partial demolition of a structure upon the Property shall be subject to provision of a quality facade improvement for the remaining portion of the commercial structure, to the satisfaction of the City's Planning Administrator; 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 amendment to the Zoning Ordinance; 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; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 4301 Fleur Drive, legally described as:

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PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH PRINCIPAL MERIDIAN, DES MOINES, POLK COUNTY, IOWA DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS 540.00 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND 933.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE S89°41'34"E 136.68 FEET ALONG THE EASTERLY LINE DESCRIBED IN GENERAL WARRANTY DEED BOOK 8490, PAGES 450-455 IN THE OFFICE OF THE POLK COUNTY, IOWA RECORDER TO A POINT THAT IS 640.00 FEET WEST OF THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE S0°19'09"W 388.38 FEET ALONG SAID EASTERLY LINE TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, SAID POINT BEING 640.00 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE S89°45'32"W 136.69 FEET ALONG SAID SOUTH LINE; THENCE N0°19'09"W 389.69 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.22 ACRES, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD

from "R-3" Multiple-Family Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District, to allow for development of the Property with loading area, drainage improvements, and off-street parking area as part of development of a 30,134-square foot general food sales establishment (Fareway) on the commercially-zoned portion of the subject property, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property, which is binding upon the owner and its successors, heirs and assigns.

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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-2" General Retail and Highway Oriented Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway Oriented Commercial District with conditions as set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

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MOVED BY Coleman TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2016-00137)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY				✓
MOORE	✓			
WESTERGAARD	✓			
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