



Roll Call Number

17-1823

Agenda Item Number

23

Date October 23, 2017

**RESOLUTION SETTING HEARING ON REQUEST FROM  
HY-VEE, INC. TO REZONE PROPERTY AT 2412 MERLE HAY ROAD,  
2416 MERLE HAY ROAD, AND 2325 59<sup>TH</sup> STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on October 5, 2017, its members voted 9-0-1 in support of a motion to recommend **APPROVAL** of a request from Hy-Vee, Inc. (purchaser), represented by Rob Wadle (officer), to rezone property locally known as 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59<sup>th</sup> Street (collectively "Property") from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow for anticipated redevelopment with a 10,500 square foot gas station/convenience store with sixteen (16) fueling locations and a coffee shop with drive-through window, subject to the following rezoning conditions:

1. Any commercial use of the Property must be conducted in conjunction with the parcels to the south that have frontage on Merle Hay Road and Hickman Road. The Property shall not be developed separately with independent commercial uses. Communication towers/antennas uses are exempt from this provision.
2. Any accessory buildings, including but not limited to, a communication tower equipment building on the Property shall be sided with durable materials that are compatible with the primary building on the Property.
3. Any communication tower on the Property shall consist of a stealth tower design.
4. The following uses are prohibited:
  - a. Adult entertainment businesses,
  - b. Any business that derives more than 50% of its gross sales from the sale of tobacco products,
  - c. Billiard parlors/game rooms,
  - d. Delayed deposit services,
  - e. Liquor stores,
  - f. Off-premises advertising signs,
  - g. Pawn brokers,
  - h. Taverns or nightclubs, and
  - i. Vehicle display lots; and

**WHEREAS**, the Property to be rezoned is legally described as follows:

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The North ½ of Lot 2 (Except the West 125 feet and that portion conveyed to City of Des Moines for ROW acquisition along Merle Hay Road recorded in Book 6528, Page 438), BISHOP PLACE, an Official Plat; and the East ½ of the South ½ of Lot 2 (Except that portion conveyed to City of Des Moines for ROW acquisition along Merle Hay Road recorded in Book 6571, Page 827), BISHOP PLACE, an Official Plat; and Lot 7 BISHOP PLACE, an Official Replat; all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa, at 5:00 p.m. on November 6, 2017, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED BY Gatto TO ADOPT.

FORM APPROVED:

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

(ZON2017-00163)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE         |      |      |      | ✓      |
| COLEMAN        | ✓    |      |      |        |
| GATTO          | ✓    |      |      |        |
| GRAY           | ✓    |      |      |        |
| HENSLEY        |      |      |      | ✓      |
| MOORE          | ✓    |      |      |        |
| WESTERGAARD    | ✓    |      |      |        |
| TOTAL          | 5    |      |      | 2      |

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