

Date November 20, 2017**RESOLUTION HOLDING HEARING ON REQUEST FROM
BOBMAR, LC TO REZONE PROPERTY AT 1233 63RD STREET**

WHEREAS, on November 6, 2017, by Roll Call No. 17-1890, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 19, 2017, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Bobmar, LC (owner), represented by Dr. Robert Margeas (officer), to revise property locally known as 1233 63rd Street ("Property") from Limited "C-1" Neighborhood Retail Commercial District to revised Limited "C-1" Neighborhood Retail Commercial District, to remove the condition requiring that the Property be landscaped and maintained in accordance with the site/landscape plan signed by the Planning Director on September 25, 2003, as on file in the Community Development Department, subject to the following rezoning conditions:

- a. Only one building may be constructed or maintained on the Property. Accessory structures are not permitted. The building shall not exceed a total of 5,400 square feet (2,755 gross square feet on the upper floor and 2,645 gross square feet on the lower level). Gross square footage shall be measured from the outside face of all exterior walls. The exterior dimensions of the building cannot be changed.
- b. The Property shall be landscaped and maintained in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
- c. The building and parking shall be configured in accordance with a revised Site Plan that shall be kept on file with the City. This shall provide a landscape plan that is generally the plan signed by the Planning Director on 9/25/03, but with the following modifications:
 - i. The twelve (12) Dark Green Arborvitae trees to the east of the building shall be replaced by two (2) Black Gum or Eastern Red Bud trees.
 - ii. Five (5) Tina Crab trees shall be provided to the south of the building.
 - iii. The landscape island within the parking may be eliminated.
 - iv. The overstory tree to the southwest of the building that is not identified on the planting plan shall be retained.
 - v. The overstory tree to the north of the building that is not identified on the planting plan shall be retained.
- d. A 6' tall, 90% opaque cedar fence shall be installed and maintained along the east and north lines of the Property in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
- e. One monument sign shall be installed on the Property in the location identified on the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City. Said monument sign shall include a base measured no greater than 24" in height. The sign face shall not exceed 12.75 square feet in gross area. Total sign and base height shall not exceed 66" in overall height measured from the grade level. The sign face width shall be no greater than 54". Sign shall be illuminated from the ground (not internally illuminated). Sign lighting shall not operate between the hours of 8pm and 7am. No exterior wall signs or interior mounted window signs shall be permitted.
- f. All exterior building and site lighting shall be in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 and in accordance with building plans approved on October 9, 2002 on file at the Community Development Department of the City except that no exterior building mounted lights shall be allowed on the north, east or west building elevations. In



Roll Call Number

17-2008

Agenda Item Number

59

Date November 20, 2017

- addition, no ground mounted exterior building lighting shall be allowed on any building elevation.
- g. Storm water shall be directed into the City storm sewer in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- h. All building entries, sidewalks and patio areas shall be in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- i. The trash enclosure shall be constructed in the location and manner as identified on the site / landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- j. Both floors of the building shall be operated as a single unit with the primary entrance to the building being on the upper floor. The building use shall be limited to professional office with NO retail component of any kind: This shall include the office of a physician, dentist, osteopath, chiropractor, optometrist, chiropodist, or similar profession; and business or professional offices including the following: law, engineering, architecture, urban planning, real estate, insurance, accounting or bookkeeping, and similar uses, but not including uses involving retail sales or non-professional services.
- k. Exterior building materials shall conform to the building plans approved on October 9, 2003 with the following exception: Paint color of all siding materials shall be one color with the exclusion of the brick. Trim color may be different than the siding material. The siding and trim color shall be complimentary to the brick in a muted, light, earth tone. Roofing materials shall be asphalt shingles that are complimentary in color to the building.
- l. Existing shrubs along the north line of the Property (owned by the adjacent property owner) shall be protected during construction.
- m. The foregoing conditions are in replacement of those conditions imposed pursuant to Ordinance No. 14,067 passed March 18, 2002 and Ordinance No. 14,303 passed December 8, 2003, which shall no longer apply to the Property.

WHEREAS, on November 6, 2017, by Roll Call No. 17-1890 it was duly resolved by the City Council that the application of Bobmar, LC to rezone the Property, as legally described below, be set down for hearing on November 20, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center; 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 1233 63rd Street, legally described as:

Lots 1 and 2, (Except 63rd Street Right-Of-Way) in WALDRON PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa



Roll Call Number

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Agenda Item Number

59

Date November 20, 2017

from Limited "C-1" Neighborhood Retail Commercial District to revised Limited "C-1" Neighborhood Retail Commercial District, to revise the condition requiring that the Property be landscaped and maintained in accordance with the site/landscape plan signed by the Planning Director on September 25, 2003, as on file in the Community Development Department, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner(s) of the Property, which is binding upon the owner(s) and their 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 revised Limited "C-1" Neighborhood Retail Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to revised Limited "C-1" Neighborhood Retail Commercial District with conditions as set forth above, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Gray TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2017-00104)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and 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