

★ Roll Call Number

18-1450

Agenda Item Number

50B

Date August 20, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM
NJC PROPERTIES, LLC TO REZONE 2525 MCKINLEY AVENUE**

WHEREAS, on August 6, 2018, by Roll Call No. 18-1333, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on July 19, 2018, its members voted 7-5 in support of a motion to recommend **DENIAL** of a request from NJC Properties, LLC (owner), represented by Noel Chladek (officer), to rezone property at 2525 McKinley Avenue ("Property") from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow single-family residential development of the property; and

WHEREAS, on August 6, 2018, by Roll Call No. 18-1333, it was duly resolved by the City Council that the application of NJC Properties, LLC to rezone the Property, legally described as follows, be set down for hearing on August 20, 2018 at 5:00 p.m. in the Council Chamber at the Council Chambers:

The South ½ of the Southeast ¼ of the Southwest ¼ of the Southwest Quarter, Section 20, Township 78, Range 24, except the west 25' and the south 33' thereof, and except the east 529' thereof, included in the City of Des Moines, Polk County, Iowa; 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 rezoning; 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 single-family residential development on the Property, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by _____ 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 7-5 to recommend denial of the requested rezoning of the Property to "C-2" General Retail and Highway-Oriented Commercial District, to allow single-family residential development on the Property.
- b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Business Park, which is not in conformance with the proposed Community Mixed Use use of the Property as stated above.
- c. The proposed rezoning could introduce residential dwellings into an area that is intended to be a business park-like setting along the Des Moines International Airport campus.
- d. 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.

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Alternative B

MOVED by Mandelbaum to continue the public hearing until September 10, 2018, at 5:00 p.m. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, 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(s) and to add garages to the proposal.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2018-00115)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED
T. M. Franklin Cownie
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