



Roll Call Number

19-0170

Agenda Item Number

46

Date January 28, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM JS BAKER PROPERTIES, LLC TO REZONE PROPERTY LOCATED AT 2800 EAST UNIVERSITY AVENUE

WHEREAS, on January 14, 2019, by Roll Call No. 19-0040, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on December 20, 2018, its members voted 8-0 in support of a motion to recommend APPROVAL of a request from JS Baker Properties, LLC (owner), represented by John Baker (officer), to rezone property located at 2800 East University Avenue ("Property") from Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised Limited "C-2" General Retail and Highway-Oriented Commercial District, to revise zoning conditions and allow retention of a driveway access to an overhead door on the north side of the principal building, subject to the following conditions:

- A. The following uses of structures and land shall be prohibited upon the Property: 1) Adult entertainment businesses; 2) Tavern and/or nightclub; 3) Off-premises advertising; 4) Sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs. 5) Pawn Brokers; 6) Delayed Deposit Services; 7) Any business selling alcohol, exclusive of a tobacco store. B. The north 50 feet of the Property shall not be used for any use except open space in conjunction with adjoining commercial use or a single-family dwelling, or for a driveway leading to an overhead door on the north facade of the building so long as the following criteria are satisfied: 1) Any driveway shall be in accordance with all Site Plan requirements and shall comply with all zoning regulations, such as minimum width, unless the Zoning Board of Adjustment grants an appeal of such. 2) Any driveway shall exit either to the alley or to the existing parking lot and not directly to East 28th Street. 3) A 6-foot tall solid wood fence shall be provided along the entire north property line, exclusive of the portion of the fence within the minimum required front yard which may be no taller than 3 feet tall. 4) A chain and bollards shall be provided where the driveway accesses any alley or parking lot to minimize use of the driveway. C. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar small vehicles permitted upon the Property shall be in conformance with a Site Plan approved under the adopted procedures and design guidelines for a vehicle display lot; and

WHEREAS, on January 14, 2019, by Roll Call No. 19-0040, it was duly resolved by the City Council that the application of JS Baker Properties, LLC to rezone the Property, as legally described below, be set down for hearing on January 28, 2019 at 5:00 p.m. in the Council Chambers at City Hall; 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



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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 2800 East University Avenue, legally described as:

(EXCEPT AN IRREGULAR PIECE BEGINNING AT THE SW CORNER OF LOT 9; THENCE EAST 29 FEET; THENCE NORTHWESTERLY TO A POINT 27 FEET NORTH OF THE SW CORNER OF LOT 11; THENCE SOUTH TO THE POINT OF BEGINNING) LOTS 9, 10, 11 AND 12, IN BLOCK 9, FAIRVIEW, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised Limited "C-2" General Retail and Highway-Oriented Commercial District, to revise zoning conditions and allow retention of a driveway access to an overhead door on the north side of the principal building, 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-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 revised Limited "C-2" General Retail and Highway-Oriented 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 Westergaard TO ADOPT.

FORM APPROVED:

Glenna K. Frank signature

Glenna K. Frank, Assistant City Attorney

(ZON2018-00235)

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

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.

J. M. Franklin Cownie Mayor signature

Diane Rauh City Clerk signature

City Clerk