



Roll Call Number

20-1526

Agenda Item Number

84

Date September 14, 2020

RESOLUTION HOLDING HEARING ON APPEAL BY INDER SINGH OF DENIAL OF TYPE 1 DESIGN ALTERNATIVE RELATED TO SITE PLAN FOR PROPERTY LOCATED AT 821 EAST EUCLID AVENUE

WHEREAS, on August 17, 2020, by Roll Call No. 20-1327, the City Council received a communication from the City Plan and Zoning Commission advising that on July 2, 2020, the City Plan and Zoning Commission voted 9-1-1 on a request from Inder Singh (owner) to approve a Site Plan "East Euclid Avenue Liquor Store" for expansion of an existing Storefront building on real property locally known as 821 East Euclid Avenue, subject to denial of certain design alternatives including a proposed Type 1 Design Alternative to allow retention of a driveway access from the primary street of East Euclid Avenue; and

WHEREAS, Inder Singh has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9.B seeking to have the Type 1 Design Alternative allowing retention of the driveway access, as denied by the Plan and Zoning Commission, approved and incorporated in said Site Plan; and

WHEREAS, on August 17, 2020, by Roll Call No. 20-1327, it was duly resolved by the City Council that the appeal be set down for hearing on September 14, 2020 at 5:00 P.M. by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place of hearing on said appeal; and

WHEREAS, in accordance with said notice, those interested in said appeal and the proposed site plan, 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, that:

- 1. Upon due consideration of the facts and any statements of interested persons and arguments of counsel, any and all arguments and objections to the Plan and Zoning Commission denial of the Type 1 Design Alternative allowing retention of the driveway access to the property locally known as 821 East Euclid Avenue, are hereby received and filed.
2. The communication from the Plan and Zoning Commission is hereby received and filed.

Alternative A

MOVED BY Westergaard to DENY the proposed Type 1 Design Alternative described above, and to make the following findings of fact and objections regarding the proposed Type 1 Design Alternative:



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- a. Des Moines Municipal Code Section 135-2.5.3.A.9 of the Planning and Design Ordinance, applicable to Storefront buildings in MX3 zoning districts, requires driveway access to occur from a non-primary street.
- b. The proposed Type 1 Design Alternative would allow for a driveway entrance off of primary street East Euclid Avenue, as well as an allowed driveway off of Wright Street.
- c. Denying the proposed Type 1 Design Alternative and removing the driveway access along East Euclid Avenue would enhance pedestrian safety along East Euclid Avenue and allow for additional street trees to be provided.
- d. The applicant has not met the burden required to demonstrate that the requested design alternative meets the criteria for approval or that the result of the design alternative would equal or exceed the results of strict compliance with Section 135-2.5.3.A.9 of the Planning and Design Ordinance.
- e. The applicant has not shown that the requested design alternative is consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan.
- f. The applicant has not shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- g. The applicant has not shown that specific site features or characteristics of the subject property create conditions that make strict compliance with applicable regulations impractical or undesirable.

**Alternative B**

MOVED BY \_\_\_\_\_ to **APPROVE** the proposed Type 1 Design Alternative described above, and to allow retention of the driveway access off of East Euclid Avenue to be shown on the site plan for the property locally known as 821 East Euclid Avenue in addition to the allowed driveway off of Wright Street.

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(10-2020-7.104)

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

MOTION CARRIED

APPROVED

J. M. Franklin Cownie  
Mayor

**CERTIFICATE**

I, P. KAY CMELIK, 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.

P. Kay Cmelik

City Clerk