

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: May 7, 2018
	Agenda Item No. 40 Roll Call No. <u>18-796</u> Communication No. <u>18-218</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision granting a Use Variance to allow use of the property at 109 E. 28th Street for outdoor storage of inoperable vehicles as part of a towing contractor business (Mid Iowa Towing) in an “M-1” Light Industrial District.

SYNOPSIS:

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment granting a Use Variance to allow use of the property at 109 E. 28th Street for outdoor storage of inoperable vehicles as part of a towing contractor business in an “M-1” Light Industrial District.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- On April 25, 2018, the Zoning Board of Adjustment voted 6-0-1 to approve a Use Variance that allows for outdoor storage of inoperable vehicles as part of a towing contractor business (Mid Iowa Towing) in a “M-1” Light Industrial District.
- The conditions imposed by the Zoning Board of Adjustment require all outdoor storage of inoperable vehicles to be setback at least 25 feet from property lines and to be screened by a 6-foot tall solid fence.
- Prior to be occupied by the Mid Iowa Towing, the site was used as an excavating contractor business storage yard.
- The site is located to the south of Dean Avenue between E. 28th Street and E. 28th Court. It is located within the Fairground Neighborhood.
- The site is owned and operated by Creighton Penney (dba Mid Iowa Towing), 109 E. 28th Street, Des Moines, IA 50317.
- Pursuant to Section 134-65 of the City Code, the City Council shall review the Board’s decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council’s action (May 7, 2018).

PREVIOUS COUNCIL ACTION(S):

Date: March 19, 2018

Roll Call Number: [18-0508](#) and [18-0509](#)

Action: Items regarding request from Creighton Penney, d/b/a Mid Iowa Towing, regarding property at 109 E. 28th Street, to allow for outdoor storage of inoperable vehicles as part of a towing contractor business:

- (A) [Amend](#) the existing PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Industrial. (Plan and Zoning Commission recommends DENIAL; six votes are required for approval) Moved by Gatto to adopt and DENY the proposed amendment. Motion Carried 7-0.

- (B) [Hearing](#) on rezoning of the property from “M-1” (Light Industrial) to “M-2” (Heavy Industrial). (Plan and Zoning Commission recommends DENIAL, six votes are required for approval) Moved by Gatto 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 8-0 to recommend denial of the requested rezoning of the property to “M-2” Heavy Industrial District, to allow the property to be used for outdoor storage of inoperable vehicles as part of a towing contractor business. b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the property is Low Density Residential, which is not in conformance with the proposed industrial use of the property as stated above. c. 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. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: April 25, 2018

Resolution Number: ZON2018-00048

Action: Motion to conditionally grant a Use Variance to allow outdoor storage of inoperable vehicles as part of a towing contractor business, approved by a 6-0-1 vote.

Board: Plan & Zoning Commission

Date: February 15, 2018

Resolution Number: ZON2018-00008

Action: Motion to recommend denial of a request to rezone the property from “M-1” Light Industrial District to “M-2” Heavy Industrial District, approved by an 8-0 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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