

Date April 3, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM
TIGER KNIGHT, LLC TO REZONE PROPERTY LOCATED AT 1210 ARMY POST ROAD**

WHEREAS, on March 6, 2017, by Roll Call No. 17-0370, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 16, 2017, its members voted 11-1 in support of a motion to recommend **DENIAL** of a request from Tiger Knight, LLC (owner), represented by Barry Nelson (officer), to rezone property located at 1210 Army Post Road (“Property”) from “C-2” General Retail and Highway Oriented Commercial District to Limited “M-1” Light Industrial District, to allow reuse of the building for warehouse and bowling pin refurbishing; and

WHEREAS, on March 6, 2017, by Roll Call No. 17-0370, it was duly resolved by the City Council that the application of Tiger Knight, LLC to rezone the Property, legally described as follows, be set down for hearing on March 20, 2017 at 5:00 p.m. in the Council Chamber at the Municipal Services Center:

LOTS 1, 2, AND 3, EXCEPT THE NORTH 10 FEET AND LOT 392, EXCEPT THE NORTH 10 FEET AND SOUTH 142 FEET, DAVID MC KEE PLACE, AN OFFICIAL PLAT, 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 amendment to the Zoning Ordinance; and

WHEREAS, on March 20, 2017, by Roll Call No. 17-0520, the City Council opened and continued the public hearing on the rezoning to the April 3, 2017 Council meeting at the request of Tiger Knight, LLC; 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 Limited “M-1” Light Industrial District, to allow reuse of the building for warehouse and bowling pin refurbishing, 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 11-1 to recommend denial of the requested rezoning of the Property to Limited “M-1” Light Industrial District.
- b. The proposed rezoning is not in conformance with the existing PlanDSM: Creating Our Tomorrow future land use designation of Community Mixed Use and Low Density Residential within a Community Node.

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- c. The proposed rezoning is not consistent with the neighborhood conversion of the area and demand for "C-2" General Retail and Highway Oriented Commercial District uses in the area and corridor.
- 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.

Alternative B

MOVED by _____ to continue the public hearing until April 17, 2017, at 5:00 p.m. in the Council Chambers, Municipal Services Center, 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.

FORM APPROVED:


Glenna K. Frank, Assistant City Attorney

(ZON2016-00220)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Commission's recommendation for denial. Des Moines City Code §134-4.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		
_____ 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.

_____ City Clerk