



**Roll Call Number**

**Agenda Item Number**

67

Date August 14, 2017

**RESOLUTION CONTINUING HEARING ON REQUEST FROM  
BRIAN JOHNSON TO REZONE PROPERTY LOCATED AT 1916 DEAN AVENUE**

**WHEREAS**, on July 24, 2017, by Roll Call No. 17-1240, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on July 6, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Brian Johnson (owner) to rezone property located at 1916 Dean Avenue ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the split-zoned Property to be used legally for the owner's existing roofing contractor business, subject to conditions stated in said Roll Call; and

**WHEREAS**, on July 24, 2017, by Roll Call No. 17-1240, it was duly resolved by the City Council that the application of Brian Johnson to rezone the Property, legally described as follows, be set down for hearing on August 14, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center:

(Except the South 206 feet) The West 148.25 feet of Lot 21 of the OFFICIAL PLAT OF THE NORTHEAST 1/4 OF SECTION 2 - TOWNSHIP 78 - RANGE 24, all now included in and forming a part of 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 amendment to the Zoning Ordinance; and

**WHEREAS**, a continuation of the public hearing to the August 28, 2017 Council meeting is necessary in order to obtain the Acceptance of Rezoning Ordinance from the applicant and/or to resolve any concerns related thereto.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, that the public hearing regarding rezoning of the Property from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District is hereby opened and continued to August 28, 2017 at 5:00 p.m. at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

(ZON2017-00102)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

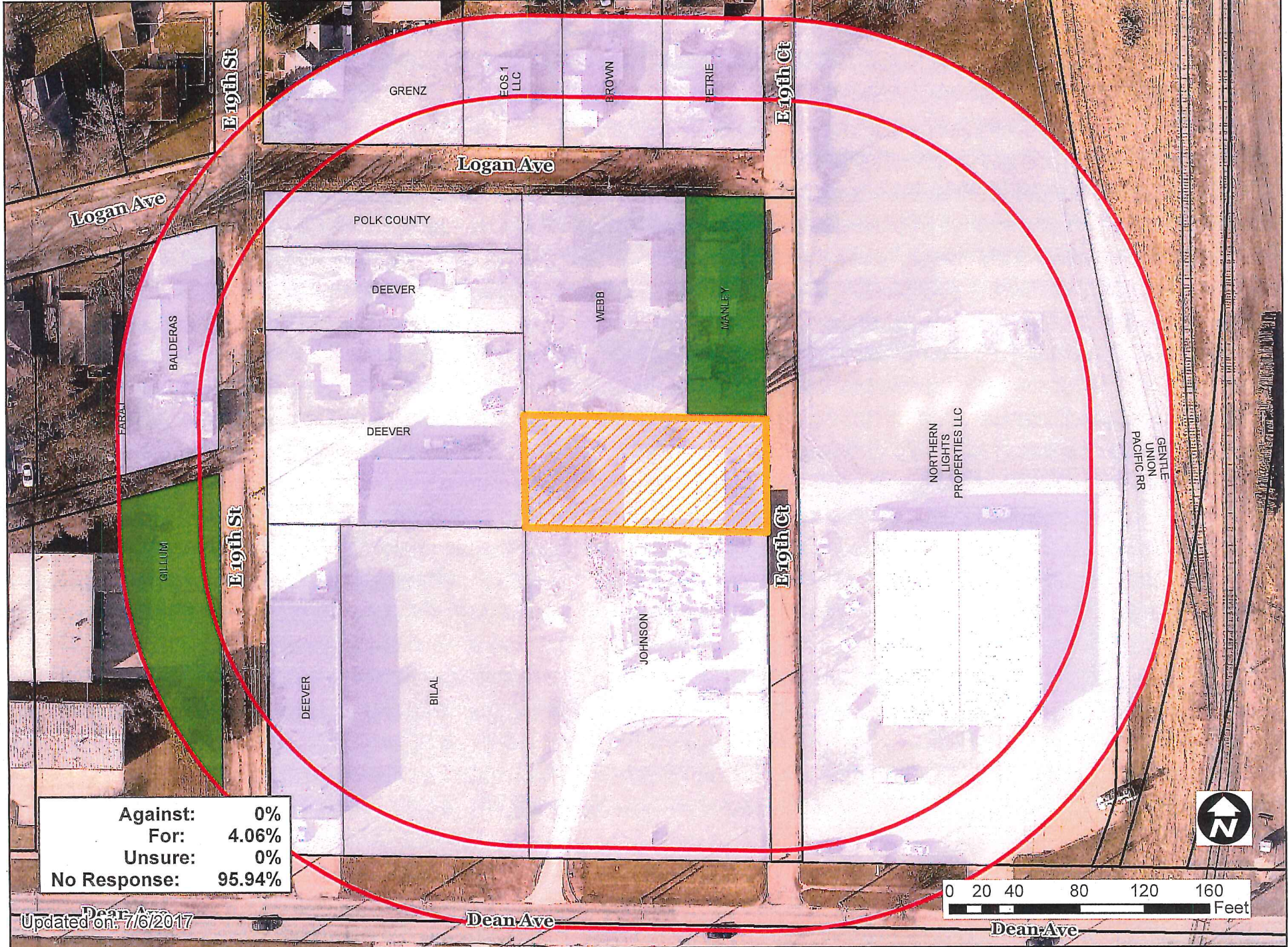
**CERTIFICATE**

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.

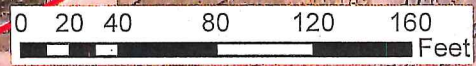
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Against:	0%
For:	4.06%
Unsure:	0%
No Response:	95.94%

Updated on: 7/6/2017



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July 10, 2017

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from Brian Johnson (owner) to rezone property located at 1916 Dean Avenue from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes				X
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

**APPROVAL** of Part A) the requested rezoning to "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan and approval of Part B) the requested rezoning subject to the following conditions: (ZON2017-00102)

1. The following shall be prohibited as permitted uses:

- a) adult entertainment businesses,

- b) vehicle display lots,
- c) taverns or nightclubs,
- d) liquor stores,
- e) off-premises advertising signs,
- f) pawn brokers, and
- g) delayed deposit services.

2. Any outdoor storage on the property shall comply with the following requirements.

- a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
- b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
- c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.

3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.

4. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District. (ZON2017-00102)

Written Responses

3 in Favor  
0 in Opposition

**STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning to "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan.

Part B) Staff recommends approval of the requested rezoning subject to the following conditions.

1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
  
2. Any outdoor storage on the property shall comply with the following requirements.
  - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
  
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
  
  - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
  
3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
  
4. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The rezoning would allow the property to be used legally for the owner's roofing contractor business. The applicant is seeking to remove the existing single-family dwelling on the property and continue to the use a garage and shop warehouse building in association with the business. An accessory garage cannot be allowed to stand alone on a residentially zoned property. Furthermore, the applicant is

seeking to bring an existing shop/warehouse building into conformance with current Code.

- 2. **Size of Site:** 10,155 square feet for the rezoning area. The overall site is 40,552-square feet.
- 3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.
- 4. **Existing Land Use (site):** The overall property is comprised of a 40,552-square foot parcel containing a 6,180-square foot metal shop building used for the applicant's vehicle and equipment repair business. The northern portion of the building is within the residentially zoned portion of the parcel, which is the subject of the rezoning.
- 5. **Adjacent Land Use and Zoning:**

**North** – "R1-60", Uses are single-family dwellings.  
**South** - "M-1", Use is Des Moines Public Schools Operations Center.  
**East** – "R1-60", Use is Northern Lights Pizza offices and warehouse.  
**West** – "M-1", Use is Deever Roofing contractor business.

- 6. **General Neighborhood/Area Land Uses:** The subject property is located in a transition area between the Dean Avenue industrial corridor and the Capitol East residential neighborhood to the north.
- 7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Capitol East Neighborhood. The neighborhood was notified of the original meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on June 16, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on June 16, 2017 (20 days prior to the hearing) and June 26, 2017 (10 days prior to the hearing), to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on June 30, 2017.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Capitol East Neighborhood Association mailings were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

The applicant will be able to provide a summary of their neighborhood meeting at the hearing.

- 8. **Relevant Zoning History:** N/A.
- 9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.

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**10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

**1. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as Industrial. Therefore, the proposed rezoning to "M-1" Light Industrial District is in conformance with the future land use plan. Staff believes that it would be appropriate to legitimize the existing vehicle and equipment repair business where there the zoning boundary transects the existing industrial building. This is so long as the permitted uses of the property are limited, prohibiting the following uses: adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.

Staff believes that the use would present minimal impacts on the surrounding residential properties so long as any outdoor storage on the property complies with a Site Plan approved under provisions in the "M-1" District for a contractor equipment storage yard.

**2. Permit and Development Center Comments:** Any construction or change of use on the site must be in compliance with the City's Site Plan regulations, including those regarding storm water management; off-street parking grading and soil erosion protection; tree removal and mitigation; landscaping and buffering; pavement design; and traffic and fire access.

**3. Landscaping & Buffering:** Any development of the site would require landscaping in accordance with the City's Landscape Standards. These standards generally include open space, bufferyard, and parking lot plantings. Staff believes that if the property is rezoned to "M-1" District, any future development or reuse of the site should be in compliance with the landscaping requirements for the "C-2" District to ensure compatibility with the surrounding neighborhood. Staff notes that any future Site Plan would be required to provide a minimum of a 7-foot landscaped paving setback along the front property line.

Future development of the site would also be subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

**4. Drainage/Grading:** Any additional development of the site must also comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.

- 5. **Utilities:** There is an existing 8-inch water main in the East 19<sup>th</sup> Court Right-Of-Way. There is also public sanitary sewer in East 19<sup>th</sup> Court and there is public storm sewer within the private property the west with intakes available in Dean Avenue just to the west of the subject property.
- 6. **Access or Parking:** The site has two existing access drives to East 19<sup>th</sup> Court and Dean Avenue. There is also non-conforming parking with maneuvering/backing from the subject property into East 19<sup>th</sup> Court. Any Site Plan for the property would require paving of all parking and maneuvering aisles.

**SUMMARY OF DISCUSSION**

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

**COMMISSION ACTION:**

Jann Freed moved staff recommendation for approval of the requested rezoning subject to the following conditions.

- 1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
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- 4. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Motion carried 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

Brian Johnson (owner) for property located at 1916 Dean Avenue.			File #	
			ZON2017-00102	
<b>Description of Action</b>	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning, subject to conditions.			
<b>PlanDSM Future Land Use</b>	Current: Industrial. Proposed: N/A.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
<b>Subject Property</b>	3	0		
<b>Outside Area (200 feet)</b>				
<b>Plan and Zoning Commission Action</b>	Approval	13-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

Brian Johnson, 1916 Dean Avenue

ZON2017-00102



1 inch = 79 feet

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ZON2017-00102

Item \_\_\_\_\_ Date 6/28/17

(am) /  (am not) in favor of the request.

(Circle One)

RECEIVED

Print Name Scott Gilman

COMMUNITY DEVELOPMENT

Signature [Signature]

JUL 03 2017

Address 212 E 19th ST

Reason for opposing or approving this request may be listed below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2017-00102

Item \_\_\_\_\_ Date 6-29-17

(am) /  (am not) in favor of the request.

(Circle One)

RECEIVED

Print Name Floyd MANLEY J. JR.

COMMUNITY DEVELOPMENT

Signature [Signature]

JUL 05 2017

Address 11421 Logan Ave

Reason for opposing or approving this request may be listed below.

Not seems to bother no one  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

67 Item ZON2017-00102 Date 7-3-17

I (am)  (am not) in favor of the request.

**RECEIVED**  
COMMUNITY DEVELOPMENT

JUL 10 2017

Print Name Connie Grommet  
Signature Connie Grommet  
Address 1916 Logan Ave.

Reason for opposing or approving this request may be listed below.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2017-00102

Item ZON2017-00102 Date 6-30-2017

I (am)  (am not) in favor of the request.

**RECEIVED**  
COMMUNITY DEVELOPMENT

JUL 10 2017

Name Castello Glenn  
Signature Castello Glenn  
Address 283 E 19th St.

Reason for opposing or approving this request may be listed below.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2017-00102

Item ZON2017-00102 Date 7/7/2017

I (am)  (am not) in favor of the request.

**RECEIVED**  
COMMUNITY DEVELOPMENT

JUL 11 2017

Print Name Kenneth W Deever Jr  
Signature Kenneth W Deever Jr  
Address 235 E. Main St  
Des Moines IA 50320

Reason for opposing or approving this request may be listed below.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Drost, Bert A.**

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**From:** Fairground Neighborhood Association <fna50317@gmail.com>  
**Sent:** Tuesday, June 20, 2017 6:42 PM  
**To:** Drost, Bert A.  
**Subject:** Property at 1916 Dean Ave

Hi Bert,

We received a letter in regards to 1916 Dean Ave about rezoning it to bring it up to city standards -- and that is on the other side of the railroad tracks, but it appears on the assessor site it's part of our neighborhood - and we're in favor of whatever they need to do in order to satisfy the city requirements.

Thanks,  
Dan Sterrett  
Secretary

--  
Fairground Neighborhood Association  
PO BOX 8057  
Des Moines, IA 50301  
[FNA50317@gmail.com](mailto:FNA50317@gmail.com)

