



Roll Call Number

14-1254

Agenda Item Number

44B

Date August 11, 2014

RESOLUTION CLOSING HEARING ON REQUEST FROM DENNIS MODDE (OWNER) TO REZONE PROPERTY LOCATED AT 727 SOUTHEAST 28TH STREET FROM "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "M-1" LIGHT INDUSTRIAL DISTRICT, TO ALLOW EXPANSION OF THE EXISTING TREE SERVICE CONTRACTOR EQUIPMENT STORAGE YARD AND WOODYARD OUTDOOR STORAGE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 17, 2014, its members voted 10-1 in support of a motion to recommend APPROVAL of a request from Dennis Modde (owner) to rezone property located at 727 Southeast 28th Street ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the subject property to be used for expansion of the existing tree service contractor equipment storage yard and woodyard outdoor storage for on-site business John's Tree Service, subject to the owner agreeing to the following conditions:

- 1. The only Industrial or Commercial use of the Property shall be for use by a tree service business.
2. Any expansion of the tree service business shall be in accordance with a Site Plan as approved by the City's Permit & Development Center.
3. All drive aisles and maneuvering areas within the expansion area shall be paved and all storage areas shall have a durable and dust-free surface.
4. Any outdoor storage within the expansion area shall be screened from view from public Right-of-Way.
5. At such time as the Southeast Connector roadway is dedicated adjacent to the Property, a row of trees spaced every 10 feet, of a species selected by the owner in consultation with the Municipal Arborist, or a 6-foot tall fence shall be provided and maintained by the owner along the north edge of the Property between the existing office building and the point where the retaining wall for the Southeast Connector roadway begins; and

WHEREAS, on July 28, 2014, by Roll Call No. 14-1137, it was duly resolved by the City Council that the application of Dennis Modde (owner) to rezone the Property, as legally described below, be set down for hearing on August 11, 2014 at 5:00 P.M., in the Council Chamber 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

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property located at 727 Southeast 28th Street, legally described as:

Except parcel of land conveyed to the City of Des Moines, Iowa by Warranty Deed recorded in Book 14659, Page 960 in the Recorder's Office of Polk County, Iowa; and

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Except the north 25 feet measured on the west line of the 10 foot vacated north/south alley lying east of and adjoining Lots 1 and 2 of Block 20, LARISON PLACE, an Official Plat; and

Lot 4 of FREDREGILL, an Official Plat; and Lots 1 through 11 of Block 20, LARISON PLACE; and the vacated north/south alley lying east of and adjoining Lots 1 through 11 of Block 20, LARISON PLACE, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the Property to be used for expansion of the existing tree service contractor equipment storage yard and woodyard outdoor storage for on-site business John's Tree Service, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property, which is binding upon the owner and his 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, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to Limited "M-1" Light Industrial District as set forth above are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "M-1" Light Industrial District as set forth above is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED by Gatto to adopt.

FORM APPROVED:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

(ZON2014-00106)

COUNCIL ACTION	YEAS	NAYS	PASS	ABS
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

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.

MOTION CARRIED APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk