



Roll Call Number

15-1735

Agenda Item Number

53B

Date October 12, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM LYMAN ENTERPRISES, LC
(OWNER) TO REZONE PROPERTY LOCATED AT 2 HARTFORD AVENUE**

WHEREAS, on September 28, 2015, by Roll Call No. 15-1608, the City Council received and filed a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 17, 2015, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Lyman Enterprises, LC (owner), represented by Anthony Lyman (officer), to rezone property located at 2 Hartford Avenue ("Property") from Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses, subject to the following conditions:

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices;
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking;
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area; and
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use; 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 locally known as 2 Hartford Avenue, legally described as:

Parcel "B" of the Plat of Survey filed October 14, 2003 and recorded in Book 10211, Page 852, being a part of Lots 22 and 23 of the Official Plat of the West ½ of Section 10, Township 78, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses, 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 its successors, heirs and assigns.

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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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-1" Neighborhood Retail Commercial district with the additional allowance of office and art studio/shop uses, with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-1" Neighborhood Retail Commercial district with the additional allowance of office and art studio/shop uses with conditions as set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED by Hensley to adopt.

FORM APPROVED:

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

(ZON2015-00165)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MOORE | ✓ | | | |
| TOTAL | 7 | | | |

MOTION CARRIED

APPROVED

T. M. Franklin
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.

Diane Rauh
City Clerk