

★ Roll Call Number

15.2082

Agenda Item Number

43B

Date December 7, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM IMPERIAL PROPERTIES, INC.
(OWNER) TO REZONE PROPERTY LOCATED AT 4141 EAST 14TH STREET**

WHEREAS, on November 23, 2015, by Roll Call No. 15-1960, the City Council received and filed a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 5, 2015, its members voted 9-2 in support of a motion to recommend **APPROVAL** of a request from Imperial Properties, Inc. (owner), represented by Bill Moyer (officer), to rezone property located at 4141 East 14th Street ("Property") from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District to allow use of the property for light industrial uses, subject to the following conditions:

- (1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allowed in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
 - c) Chrome plating.
- (2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
- (3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
- (4) Any overhead doors on any principal or accessory building shall not directly face public streets, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately designed in such a manner that their visual impact would be minimal.
- (5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

WHEREAS, the Commission further recommended the following additional conditions if the property was to be used for chrome plating:

1. Imperial Properties, Inc., must provide a City Code compliant construction and containment plan for the existing building prepared by a licensed architect or engineer;

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2. Imperial Properties, Inc., must demonstrate financial security for removal, disposal and abatement of hazardous materials and processes on the Property, as applicable; and
3. Imperial Properties, Inc., must provide a business/financial plan for operations going forward if financial assistance is requested from the City's Office of Economic Development; and

WHEREAS, the owner has determined that it will be unable to meet the additional conditions for chrome plating and has agreed to remove chrome plating from the allowed uses of the Property; 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 4141 East 14th Street, legally described as:

Beginning at a point 33 feet East and 25 feet South of the NW corner of the SW ¼ of Section 24, Township 79 North, Range 24, West of the 5th P.M.; thence East along the South line of Aurora Avenue 200 feet; thence South 180 feet parallel to the East line of East 14th Street; thence West along a line parallel to the South line of Aurora Avenue 200 feet; thence North 180 feet to the Point of Beginning, now included in and forming a part of City of Des Moines, Polk County, Iowa, subject to road easement.

from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District to allow use of the property for light industrial uses subject to the conditions stated above with no allowed chrome plating use, all 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.

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 "M-1" Light Industrial District to allow use of the property for light industrial use, with conditions as set forth above with no allowed chrome plating use, are hereby overruled, and the hearing is closed.

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2. The proposed rezoning of the Property to "M-1" Light Industrial District to allow use of the property for light industrial use, with conditions as set forth above with no allowed chrome plating use, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED by Mahaffey to adopt.

FORM APPROVED:

Roger K. Brown
Assistant City Attorney

(ZON2015-00178)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

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.

Y. M. Franklin Council Mayor

Diane Rauh City Clerk