



Roll Call Number

16-1663

Agenda Item Number

61B

Date September 26, 2016

RESOLUTION HOLDING HEARING ON REQUEST FROM ENRIQUE AND OSCAR ZENTENO TO REZONE PROPERTY LOCATED AT 2348 AND 2354 EAST GRAND AVENUE

WHEREAS, on September 12, 2016, by Roll Call No. 16-1517, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 1, 2016, its members voted 8-0 to recommend DENIAL of a request from Enrique and Oscar Zenteno (owners) to rezone property located at 2348 and 2354 East Grand Avenue ("Property") from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow for the existing legal non-conforming auto repair business to be brought into conformance with the City's Zoning Code; and

WHEREAS, on September 12, 2016, by Roll Call No. 16-1517, it was duly resolved by the City Council that the application of Enrique and Oscar Zenteno to rezone the Property, legally described as follows, be set down for hearing on September 26, 2016 at 5:00 p.m. in the Council Chamber at the Municipal Service Center:

Lots 74 through 76, CENTRAL PARK, an Official Plat, 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 rezoning; 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 "C-2" General Retail and Highway Oriented Commercial District, to allow the existing legal non-conforming auto repair business to be brought into conformance with the City's Zoning Code, 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 8-0 to recommend denial of the requested rezoning of the Property.
b. The Property's future land use designation in the PlanDSM: Creating Our Tomorrow Plan contemplates that the Property will reflect in the character of the surrounding low-density residential area rather than remain commercial in nature.
c. 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.

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-2-

Alternative B

MOVED by \_\_\_\_\_ to continue the public hearing until October 10, 2016, at 5:00 p.m. in the Council Chambers at the Municipal Service 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.

Moved by Gatto to continue to 10/24/16 at 5:00 pm; direct the Legal Department staff to prepare the appropriate documentation including conditions that will be required to be accepted prior to passage of the ordinances and to determine a timeline/deadline for completion.

FORM APPROVED:

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

(ZON2016-00120)

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	6			1

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