

★ Roll Call Number

17-1502

Agenda Item Number

53B

Date August 28, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM CAPITOL CITY TOWING & RECOVERY, LLC TO REZONE PROPERTY AT 915 SOUTHEAST 14TH COURT**

**WHEREAS**, on August 14, 2017, by Roll Call No. 17-1362, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 3, 2017, its members voted 10-1 in support of a motion to recommend **DENIAL** of a request from Capitol City Towing & Recovery, LLC (lessee), represented by Adam Malloy (officer), to rezone property at 915 Southeast 14th Court ("Property") from "C-2" General Retail and Highway-Oriented Commercial District to "M-2" Heavy Industrial District, to allow the Property to be used for a towing operation involving the outdoor storage of inoperable vehicles, rebuilding and recycling of vehicles, and vehicle sales lot, considered a junk and salvage yard; and

**WHEREAS**, on August 14, 2017, by Roll Call No. 17-1362, it was duly resolved by the City Council that the application of Capitol City Towing & Recovery, LLC to rezone the Property, legally described as follows, be set down for hearing on August 28, 2017 at 5:00 p.m. in the Council Chamber at the Municipal Service Center:

Lots 107-110, and the east ½ alley west of and adjoining Lots 107-110, Grays Subdivision, Blocks 50 & 62, Brooks and Cos. Addition, 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 "M-2" Heavy Industrial District, to allow the Property to be used for a towing operation involving the outdoor storage of inoperable vehicles, rebuilding and recycling of vehicles, and vehicle sales lot, considered a junk and salvage yard, 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 10-1 to recommend denial of the requested rezoning of the Property to "M-2" Heavy Industrial District, to allow the Property to be used for a towing operation involving the outdoor storage of inoperable vehicles, rebuilding and recycling of vehicles, and vehicle sales lot, considered a junk and salvage yard.

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- b. The PlanDSM: Creating Our Tomorrow Plan ~~future land use~~ designation of the Property is Community Mixed Use, which is not in conformance with the proposed Industrial use of the Property as stated above.
- 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.

Alternative B

MOVED by Gatto to continue the public hearing until September 11, 2017, at 5:00 p.m. in the Council Chambers in 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.

FORM APPROVED:

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

(ZON2017-00109)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Plan and Zoning 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	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