



Roll Call Number

17-1468

Agenda Item Number

57

Date September 11, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM NELSON DEVELOPMENT 1, LLC TO REZONE PROPERTY AT 110 SOUTHEAST 7<sup>TH</sup> STREET**

**WHEREAS**, on August 28, 2017, by Roll Call No. 17-1468, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 17, 2017, its members voted 15-0 in support of a motion to recommend **APPROVAL** of a request from Nelson Development 1, LLC (owner), represented by Alexander Grgurich (officer), to rezone property at 110 Southeast 7<sup>th</sup> Street ("Property") from "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use District, to allow for development of a 4-story, 149-unit multi-family residential structure, subject to the following conditions:

1. The following uses shall be prohibited on the Property:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
  - f. Freestanding package goods stores for the sale of alcoholic beverages.
  - g. Pawnshops.
  - h. Printing, publishing houses and lithographing shops.
  - i. Plumbing and heating shops.
  - j. Miniwarehouse uses.
  - k. Freestanding taverns and night clubs.
  - l. Warehousing.
2. Any development of the Property shall be subject to the undergrounding of all overhead utilities to the maximum extent possible.
3. Any development upon the Property shall re-establish East Vine Street right-of-way and improve it to the satisfaction of the City's Traffic & Transportation Division.
4. Any development upon the Property shall improve Southeast 7<sup>th</sup> Street to the satisfaction of the City's Traffic & Transportation Division.
5. Any development or site modifications shall be in accordance with a Site Plan that satisfies any applicable design guidelines, such as those for the "C-3B" District, the "D-O" Downtown Overlay District, and/or Multiple-Family Residential; and

**WHEREAS**, on August 28, 2017, by Roll Call No. 17-1468, it was duly resolved by the City Council that the application of Nelson Development 1, LLC (owner) to rezone the Property, as legally described below, be set down for hearing on September 11, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center; 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



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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 110 Southeast 7th Street, legally described as:

From Limited "C-3B" to "C-3B"

THAT PART OF LOT SEVEN (7) DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 7; THENCE NORTH 47.2 FEET; THENCE IN A WESTERLY DIRECTION TO A POINT ON THE WEST LINE OF SAID LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 7 TO THE POINT OF BEGINNING; ALL OF LOT SIX (6); AND THAT PART OF THE VACATED ALLEY AT A POINT ON THE VACATED ALLEY LYING BETWEEN LOTS 4, 5 6 AND 7, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 7, THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF LOT 6; THENCE WESTERLY, AT RIGHT ANGLES, A DISTANCE OF 8 FEET; THENCE IN A NORTHERLY DIRECTION, PARALLEL TO THE WEST LINE OF LOTS 6 AND 7, A DISTANCE OF 69.1 FEET; THENCE EASTERLY TO THE POINT OF BEGINNING, ALL IN BLOCK EIGHTEEN (18); AND THAT PART OF VACATED MARKET STREET DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 IN BLOCK 18; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 6 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 158 FEET; THENCE SOUTHERLY, AT RIGHT ANGLES, 14 FEET; THENCE EASTERLY, AT RIGHT ANGLES, 158 FEET, TO THE WEST LINE OF SE 7TH STREET; THENCE NORTHERLY, ALONG THE WEST LINE FO SE 7TH STREET, 14 FEET, TO THE POINT OF BEGINNING; ALL IN TOWN OF DE MOINE, NOW INCLUDED IN AND FORMING APART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

From "M-1" to "C-3B"

THE SOUTHERLY PART OF LOT 2 MEASURING 8.67 FEET ON THE WEST LINE AND 9.45 FEET ON THE EAST LINE; AND THE SOUTHERLY PART OF LOT 9 MEASURING 9.55 FEET ON THE WEST LINE AND 10.33 FEET ON THE EAST LINE; ALL OF LOT 7 EXCEPT THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 7, THENCE NORTH 47.2 FEET, THENCE IN A WESTERLY DIRECTION TO A POINT ON THE WEST LINE OF SAID LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 7, THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF LOT 7, THENCE EASTERLY ALONG THE SOUTH SIDE OF SAID LOT 7 TO THE POINT OF BEGINNING; AND ALL OF LOTS 3, 4, 5, AND 8 IN BLOCK 18 TOWN OF DE MOINE; AND ALL OF THE VACATED ALLEY LYING BETWEEN LOTS 3, 4, 5, 6 AND 7 AND THE ABOVED DESCRIBED PORTIONS OF LOTS 2 AND 9 IN SAID BLOCK 18, EXCEPT THAT PORTION OF SAID ALLEY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE WEST LINE OF LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 7, THENCE SOUTHERLY THE SOUTHWEST CORNER OF LOT 6, THENCE WESTERLY AT RIGHT ANGLES A DISTANCE OF 8 FEET, THENCE NORTHERLY PARALLEL TO THE WEST LINE OF LOTS 6 AND 7, A DISTANCE OF 69.1 FEET,



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THENCE EASTERLY TO POINT OF BEGINNING; AND THE WEST 10 FEET OF THE VACATED ALLEY ABUTTING SAID LOT 5 ON THE EAST; ALL IN THE TOWN OF DE MOINE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. AND

LOTS 1, 2, 9, AND 10 IN BLOCK 18 IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE SOUTHERLY PART OF LOT 2 MEASURING 8.67 FEET ON THE WEST LINE OF SAID LOT 2 AND 9.45 FEET ON THE EAST LINE OF SAID LOT 2, AND EXCEPT THE SOUTHERLY PART OF LOT 9 MEASURING 9.55 FEET ON THE WEST LINE OF SAID LOT 9 AND 10.33 FEET ON THE EAST LINE OF SAID LOT 9, AND THAT PART OF THE VACATED NORTH/SOUTH ALLEY BETWEEN LOTS 1 AND 10 AND THE ABOVE DESCRIBED PORTIONS OF LOTS 2 AND 9.

AND

THAT PART OF THE VACATED EAST VINE STREET RIGHT-OF-WAY LYING NORTH OF AND ADJOINING BLOCK 18, TOWN OF DES MOINE, AN OFFICIAL PLAT, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 10 OF SAID BLOCK 18; THENCE SOUTH 74°30'00" WEST (ASSUMED) ALONG THE NORTH LINE OF SAID BLOCK 18, A DISTANCE OF 318.02 FEET TO THE NORTHEAST CORNER OF LOT 1 OF SAID BLOCK 18; THENCE NORTH 15°25'50" WEST, 50.41 FEET; THENCE NORTH 74°30'00" EAST, 105.03 FEET, THENCE NORTHEASTERLY ALONG A 2274.49 FOOT RADIUS CURVE CONCAVE SOUTHEAST WITH A CENTRAL ANGLE OF 5°22'02", A CHORD DISTANCE OF 212.99 FEET, A CHORD BEARING OF NORTH 77°11'02" EAST WITH AN ARC DISTANCE OF 213.07 FEET TO THE WEST RIGHT-OF-WAY LINE OF SOUTHEAST 7<sup>TH</sup> STREET; THENCE SOUTH 15°45'34" EAST ALONG SAID WEST RIGHT-OF-WAY LINE 40.44 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use District, to allow for development of a 4-story, 149-unit multi-family residential structure, 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.

**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-3B" Central Business Mixed-Use District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-3B" Central Business Mixed-Use District with conditions as set forth above, is hereby found to be in conformance with PlanDSM: Creating Our Tomorrow Plan, and is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

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MOVED BY Gatto TO ADOPT.

FORM APPROVED:

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

(ZON2017-00132)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6	1		

MOTION CARRIED

APPROVED

T. M. Franklin Cownie 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