



Roll Call Number

17-1607

Agenda Item Number

58

Date September 11, 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, on August 28, 2017, by Roll Call No. 17-1502, said hearing was opened and continued to the September 11, 2017 Council meeting, and said resolution further directed the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to conditions acceptable to the City and owner; and

WHEREAS, City staff have prepared an Ordinance rezoning the Property locally known as 915 Southeast 14th Court to Limited "M-1" Light Industrial District to allow the Property to be used for a towing operation, subject to the conditions stated below as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owners of the Property, which is binding upon the owners and their successors, heirs and assigns:

- (1) The subject property may only be used for a vehicle storage lot.
- (2) Any inoperable vehicles must be stored within the building at all times.
- (3) Outdoor storage of operable vehicles shall be screened with fencing and landscaping in accordance with the City's zoning regulations, site plan policies and landscaping policies.
- (4) No dismantling, parting, salvaging or sale of vehicles shall occur on the property; and

WHEREAS, in accordance with the published 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.



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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 "M-1" Light Industrial District, with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "M-1" Light Industrial 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.

MOVED BY Gatto TO ADOPT.

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 Fauh

City Clerk