

★ Roll Call Number

17-1688

Agenda Item Number

53

Date September 25, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM
BRIAN JOHNSON TO REZONE PROPERTY LOCATED AT 1916 DEAN AVENUE**

WHEREAS, on July 24, 2017, by Roll Call No. 17-1240, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on July 6, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Brian Johnson (owner) to rezone property located at 1916 Dean Avenue ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the split-zoned Property to be used legally for the owner's existing roofing contractor business, subject to the following conditions:

1. The following shall be prohibited as permitted uses on the Property:
 - a) adult entertainment businesses,
 - b) vehicle display lots,
 - c) taverns or nightclubs,
 - d) liquor stores,
 - e) off-premises advertising signs,
 - f) pawn brokers, and
 - g) delayed deposit services.
2. Any outdoor storage on the Property shall comply with the following requirements:
 - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
 - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining residential (R) district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in the Des Moines Municipal Code.
 - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
 - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
3. The outside storage or expansion of the existing business on the Property shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the Property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District; and

WHEREAS, on July 24, 2017, by Roll Call No. 17-1240, it was duly resolved by the City Council that the application of Brian Johnson to rezone the Property, legally described as follows, be set down for hearing on August 14, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center:



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(Except the South 206 feet) The West 148.25 feet of Lot 21 of the OFFICIAL PLAT OF THE NORTHEAST 1/4 OF SECTION 2 - TOWNSHIP 78 - RANGE 24, 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 amendment to the Zoning Ordinance; and

WHEREAS, on August 14, 2017, by Roll Call No. 17-1425, said hearing was opened and continued to the August 28, 2017 Council meeting in order to obtain the Acceptance of Rezoning Ordinance from the applicant and/or to resolve any concerns related thereto; and

WHEREAS, following said continuance, it was determined by the applicant and Community Development Department staff that the proposed rezoning contained a condition limiting the use of the Property in a manner that was not consistent with the applicant's planned use of the Property as a vehicle display lot; and

WHEREAS, on August 28, 2017, by Roll Call No. 17-1500, said hearing was opened and continued to the September 25, 2017 Council meeting, in order to resubmit the request for rezoning to the Plan and Zoning Commission on September 7, 2017 and to republish notice of the hearing to correctly identify the proposed use of the Property; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 7, 2017, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Brian Johnson (owner) to rezone the Property from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the split-zoned Property to be used legally for the owner's existing roofing contractor business and/or to allow the Property to be used in whole or in part as a vehicle display lot, subject to all conditions set forth above with a revision to Condition #1(b) as follows:

1. The following shall be prohibited as permitted uses on the Property:

....

b) outdoor display of vehicles for sale,

WHEREAS, City staff have prepared an Ordinance rezoning the Property locally known as 1916 Dean Avenue to Limited "M-1" Light Industrial District to allow the Property to be used legally for the owner's existing roofing contractor business and/or to allow the Property to be used in whole or in part as a vehicle display lot, subject to the conditions stated above and Condition #1(b) as revised 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 his successors, heirs and assigns; 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.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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1. The communication of the City's Plan and Zoning Commission regarding its September 7, 2017 public hearing is hereby received and filed.
2. 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 including Condition #1(b) as revised, are hereby overruled, and the hearing is closed.
3. The proposed rezoning of the Property to Limited "M-1" Light Industrial District with conditions as set forth above including Condition #1(b) as revised, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is 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

(ZON2017-00102)

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

MOTION CARRIED

APPROVED

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.

Chris Coleman
 MAYOR PRO TEM

Diane Fauh City Clerk