

★ Roll Call Number

18-0510

Agenda Item Number

65

Date March 19, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
OPERATING ENGINEERS, LOCAL 234, BUILDING CORPORATION TO  
REZONE PROPERTY AT 4880 HUBBELL AVENUE**

**WHEREAS**, on March 8, 2018, by Roll Call No. 18-0353, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 15, 2018, its members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from Operating Engineers, Local 234, Building Corporation (owner), represented by Tracy Petersen (officer), to rezone property locally known as 4880 Hubbell Avenue ("Property") from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing union hall site within the Property, subject to the following rezoning conditions:

1. Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
2. The following uses shall be prohibited upon the Property:
  - a. Adult entertainment businesses,
  - b. Any business that derives more than 40% of its gross sales from the sale of alcoholic liquor, wine, beer, and/or tobacco products,
  - c. Billiard parlors/game rooms,
  - d. Delayed deposit services,
  - e. Off-premises advertising signs,
  - f. Pawn brokers,
  - g. Taverns or nightclubs, and
  - h. Vehicle display lots; and

**WHEREAS**, on March 8, 2018, by Roll Call No. 18-0353, it was duly resolved by the City Council that the application of Operating Engineers, Local 234, Building Corporation to rezone the Property, as legally described below, be set down for hearing on March 19, 2018 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

**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 4880 Hubbell Avenue, legally described as:



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A tract of land in the South Half (S 1/2) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 15, Township 79 North, Range 23 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described, to-wit:

Commencing at the Southwest corner of the SE 1/4, SW 1/4 of said Section 15 (the West line of said SE 1/4 SW 1/4 having an assumed bearing of N 00°00'30" W); thence N 00°00'30" W, along the West line of said SE 1/4, SW 1/4, a distance of 493.80 feet to the point of beginning; thence N 00°00'30" W, a distance of 170.00 feet; more or less, to the North line of the South half of said SE 1/4, SW 1/4; thence S 89°45'30" E, along the North line of the South half of said SE 1/4, SW 1/4 a distance of 477.9 feet; thence S 49°10'00" W, a distance of 258.73 feet; thence N 89°45'30" W, a distance of 282.11 feet to the point of beginning. Said tract of land containing 1.48 acres more or less.

And

A tract of land in the South Half of the Southeast Quarter of the Southwest Quarter of Section 15, Township 79 North, Range 23 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described, to-wit:

Commencing at the Southwest corner of the SE 1/4 SW 1/4 of said Section 15 (the West line of said SE 1/4, SW 1/4 having an assumed bearing of N 00°00'30" W); thence N 00°00'30" W, along the West line of said SE 1/4, SW 1/4, a distance of 236.6 feet to the point of beginning; thence N 00°00'30" W, a distance of 257.20 feet; thence S 89°45'30" E, a distance of 282.11 feet; thence S 49°10'00" W, a distance of 312.77 feet; thence S 41°25'00" W, a distance of 68.70 feet to the point of beginning. Said tract of land containing 0.80 acres, more or less.

All now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing union hall site within the Property, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner(s) of the Property, which is binding upon the owner(s) and their 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-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.



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2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above, 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 Westergaard TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2018-00001)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			
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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk