



Roll Call Number

18-1192

Agenda Item Number

46 B

Date July 9, 2018

RESOLUTION HOLDING HEARING ON REQUEST FROM UTRAJ, LLC TO REZONE 2216 EAST 14TH STREET

WHEREAS, on June 25, 2018, by Roll Call No. 18-1069, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on June 7, 2018, its members voted 12-0 in support of a motion to recommend DENIAL of a request from Utraj, LLC (purchaser), represented by Utkarsh Mahajan (officer), to rezone property at 2216 East 14th Street ("Property") from Limited "C-2" General Retail and Highway-Oriented Commercial District, with uses restricted to those allowed in the "C-1" Neighborhood Retail Commercial District and used car sale lots, to a Limited "C-2" General Retail and Highway-Oriented Commercial District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use; and

WHEREAS, on June 25, 2018, by Roll Call No. 18-1069, it was duly resolved by the City Council that the application of Utraj, LLC to rezone the Property, legally described as follows, be set down for hearing on July 9, 2018 at 5:00 p.m. in the Council Chamber at the Council Chambers:

LOTS 85, 86, 87 AND 88, EXCEPT THAT PART CONDEMNED FOR HIGHWAY PURPOSES, IN DEMOTTE'S ADDITION TO CAPITAL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY.

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 Limited "C-2" General Retail and Highway-Oriented Commercial District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by Westergaard 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 12-0 to recommend denial of the requested rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial

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District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use.

b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Neighborhood Mixed Use, which is not in conformance with the proposed Community Mixed Use 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 _____ to continue the public hearing until July 23, 2018, at 5:00 p.m. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, 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(s).

FORM APPROVED:

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

(ZON2018-00072)

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

MOOTION 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