



Roll Call Number

18-1291

Agenda Item Number

54B

Date July 23, 2018

RESOLUTION HOLDING HEARING ON REQUEST FROM LEE ROSE, LLC TO REZONE 2701 AND 2703 EAST GRAND AVENUE

WHEREAS, on June 25, 2018, by Roll Call No. 18-1068, 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 from Lee Rose, LLC (owner) d/b/a Des Moines Comfort, Inc., represented by Lee Rose, Jr. (officer), to rezone property at 2701 and 2703 East Grand Avenue ("Property") from "C-1" Neighborhood Retail Commercial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing mechanical contractor shop use on the Property; and

WHEREAS, on June 25, 2018, by Roll Call No. 18-1068, it was duly resolved by the City Council that the application of Lee Rose, LLC to rezone the Property be set down for hearing on July 9, 2018 at 5:00 p.m. in the Council Chamber at the Council Chambers; 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, 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, on July 9, 2018, by Roll Call No. 18-1190, the City Council opened and continued the public hearing on said proposed rezoning to the July 23, 2018 City Council meeting, and directed the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to conditions acceptable to the City and the owners, which conditions include:

- (1) The only permitted uses shall be those uses permitted in the "C-1" Neighborhood Retail Commercial District and a HVAC/mechanical contractor shop.
(2) Outside storage is prohibited.
(3) No alteration to the existing buildings or sites shall occur unless such work is in accordance with a site plan that has been approved by the City's Permit and Development Center; 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 2701 and 2703 East Grand Avenue, legally described as:

THE EAST 22 FEET OF LOT "B" IN WILLIAM T. SMITH'S GRAND AVENUE ADDITION TO GRANT PARK, AN OFFICIAL PLAT, AND LOT 1 IN BLOCK 19 IN FARWELL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY



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from "C-1" Neighborhood Retail Commercial District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing mechanical contractor shop use on 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.
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 Gatto TO ADOPT.

FORM APPROVED:

Glenna K. Frank signature

Glenna K. Frank, Assistant City Attorney

(ZON2018-00080)

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.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL (YEAS: 7).

MOTION CARRIED

APPROVED

T. M. Franklin Council Mayor signature

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 signature

City Clerk