



Roll Call Number

19-1670

Agenda Item Number

68B

Date October 14, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM IOWA FIREWORKS COMPANY, LLC TO REZONE PROPERTY LOCATED AT 1820 EAST ARMY POST ROAD

WHEREAS, on September 23, 2019, by Roll Call No. 19-1490, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 5, 2019, its members voted 10-1 in support of a motion to recommend DENIAL of a request from Iowa Fireworks Company, LLC (purchaser), represented by Jeremiah Terhark (officer), to rezone property located at 1820 East Army Post Road ("Property") and add zoning conditions permitting as principal uses the sale and warehousing of consumer fireworks in the existing Limited "M-1" Light Industrial District, to allow for the Property to be occupied by a business involving the sale and storage of fireworks; and

WHEREAS, on September 23, 2019, by Roll Call No. 19-1490, it was duly resolved by the City Council that the application of Iowa Fireworks Company, LLC to rezone the Property, legally described as follows, be set down for hearing on October 14, 2019 at 5:00 p.m. in the Council Chamber at the Council Chambers:

LOT 41 IN NEW HOPE, AN OFFICIAL PLAT, EXCEPT COMMENCING AT THE SOUTHWEST CORNER OF LOT 41 IN NEW HOPE; THENCE NORTH 33.3 FEET ALONG THE WEST LINE OF LOT 41; THENCE EASTERLY TO A POINT ON THE EAST LINE OF LOT 41; 30.8 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 41; THENCE SOUTH 30.8 FEET ALONG THE EAST LINE OF LOT 41 TO THE SOUTHEASTERN CORNER OF LOT 41; THENCE WEST TO THE POINT OF BEGINNING, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. SUBJECT TO ALL EASEMENTS, COVENANTS, AND RESTRICTIONS OF RECORD; 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.

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 add zoning conditions permitting as principal uses the sale and warehousing of consumer fireworks in the existing Limited "M-1" Light Industrial District, to allow for the Property to be occupied by a business involving the sale and storage of fireworks, are hereby received and filed, and the hearing is closed.



Roll Call Number

19-167D

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68B

Date October 14, 2019

Alternative A

MOVED by \_\_\_\_\_ 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 10-1 to recommend denial of the requested rezoning of the Property to add zoning conditions permitting as principal uses the sale and warehousing of consumer fireworks in the existing Limited "M-1" Light Industrial District, to allow for the Property to be occupied by a business involving the sale and storage of fireworks.
b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Business Park, which is not in conformance with the proposed Industrial use of the Property as stated above.
c. Industrial development such as that proposed by Iowa Fireworks Company, LLC should be focused in areas of the City that are already designated for such uses; the subject property is located along East Army Post Road in an area that contains primarily commercial and residential uses and development as a commercial corridor is more appropriate for the surrounding neighborhood.
d. 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 Gatto to continue the public hearing until November 4, 2019, 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, Assistant City Attorney

(ZON2019-00151)

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

CERTIFICATE

I, Laura Baumgartner, Acting 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.

J. M. Franklin Cownie Mayor

Laura Baumgartner Acting City Clerk