



Roll Call Number

19-1780

Agenda Item Number

65A

Date November 4, 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 be set down for hearing on October 14, 2019 at 5:00 p.m. in 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, on October 14, 2019, by Roll Call No. 19-1669, the City Council approved an amendment to the PlanDSM: Creating Our Tomorrow Plan to amend the existing future land use designation for the Property from Business Park to Industrial to allow for the proposed rezoning; and

WHEREAS, on October 14, 2019, by Roll Call No. 19-1670, the City Council further opened and continued the hearing on the request by Iowa Fireworks Company, LLC to rezone the Property until November 4, 2019, in order for Council to consider approval of the proposed rezoning; and

WHEREAS, in accordance with said notice and continuance, 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 located at 1820 East Army Post Road, legally described as:

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



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FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. SUBJECT TO ALL EASEMENTS, COVENANTS, AND RESTRICTIONS OF RECORD.

to "M-1" Light Industrial District and allow for the Property to be occupied by a business involving the sale and storage of fireworks.

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 "M-1" Light Industrial District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to "M-1" Light Industrial District, 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

(ZON2019-00151)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Plan and Zoning Commission's disapproval thereof. Des Moines City Code §134-4.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	6	1		

MOTION CARRIED APPROVED

J. M. Franklin Cownie
Mayor

CERTIFICATE

I, P. Kay Onelik, 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.

P. Kay Onelik

City Clerk