



**Roll Call Number**

24-1446

**Agenda Item Number**

25

**Date** October 21, 2024

**RESOLUTION SETTING HEARING ON APPEAL FROM IOWA MOTOR CARRIERS FOUNDATION (OWNER), REPRESENTED BY BRENDA NEVILLE (OFFICER), ON A DENIAL OF A TYPE 2 DESIGN ALTERNATIVE FOR A PUBLIC HEARING SITE PLAN FOR PROPERTY LOCATED AT 717 EAST COURT AVENUE**

**WHEREAS**, at a public hearing held on July 18, 2024, the City Plan and Zoning Commission considered a request from Iowa Motor Carriers Foundation (Owner), represented by Brenda Neville (Officer), for approval of the Site Plan for Type 2 Design Alternative waiving the requirement for undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council, as shown in the Site Plan submitted for the property located at 717 East Court Avenue; and

**WHEREAS**, pursuant to Section 135-9.2.3.B.16.A of the Municipal Code, undergrounding of overhead electrical lines is required in an underground district designated by resolution of the City Council; and

**WHEREAS**, pursuant to Section 1-2 of the Municipal Code, the underground district designated by resolution of the City Council encompasses the area bounded by: the territory on the west side of the Des Moines River beginning at the point of intersection of the west bank of the Des Moines River with the easterly extension of the south line of the first east/west alley south of Court Avenue; thence westerly along the westerly extension of the south line of such alley to the east right-of-way line of Fifth Avenue; thence southerly along the east right-of-way line of Fifth Avenue to the southeast corner of the intersection of Fifth Avenue and Cherry Street; thence westerly along the south right-of-way line of Cherry Street to the southwest corner of the intersection of Cherry Street and Ninth Street; thence northerly along the west right-of-way line of Ninth Street to the northwest corner of the intersection of Ninth Street and Grand Avenue; thence easterly along the north right-of-way line of Grand Avenue to the west bank of the Des Moines River; thence southerly along the west bank of the Des Moines River to the point of beginning; and the territory on the east side of the Des Moines River beginning at the point of intersection of the east bank of the Des Moines River with the north right-of-way line of East Grand Avenue; thence easterly along the north right-of-way line of East Grand Avenue to the northeast corner of the intersection of East Grand Avenue and vacated East Ninth Street; thence southerly along the east right-of-way line of vacated East Ninth Street to the intersection of the east right-of-way line of vacated East Ninth Street and the easterly extension of the south line of the first vacated east/west alley lying south of East Court Avenue; thence westerly along the westerly extension of the south line of such alley to the east bank of the Des Moines River; thence northerly along the east bank of the Des Moines River to the point of beginning.; and

**WHEREAS**, in its Site Plan, the Iowa Motor Carriers Foundation proposed for waiving the requirements for undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council since the property located at 717 East Court Avenue is located within the above defined underground district; and



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WHEREAS, the Plan and Zoning Commission voted 13-0 for DENIAL of the requested Type 2 Design Alternative, in which the Commission denied the request to waive or modify said ordinance requirements to allow for no undergrounding of the current overhead electrical lines where it is required in an underground district designated by resolution of the City Council; and

WHEREAS, the Iowa Motor Carriers Foundation has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9(B), and is seeking further review of the Plan and Zoning Commission decision and denial of the above-described Type 2 design alternative to the Site Plan waiving the requirements for undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council set forth in Municipal Code Section 135-9.2.3.B.16.A.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

- 1. The City Council shall consider the appeal by the Iowa Motor Carriers Foundation at a public hearing in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 5:00 p.m. on November 4, 2024 at which time the City Council will hear both those who oppose and those who favor the proposal.
2. The City Clerk is hereby authorized and directed to publish notice of said hearing in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.

MOVED BY Gatto TO ADOPT.

SECOND BY Voss

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill, Assistant City Attorney

(SITE-2023-000101)

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

CERTIFICATE

I, Laura Baumgartner, 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.

Connie Boesen Mayor

Laura Baumgartner City Clerk