



Roll Call Number

20-1615

Agenda Item Number

54

Date October 5, 2020

**RESOLUTION HOLDING HEARING ON REQUEST FROM McFADDEN HOLDINGS, LLC
TO REZONE PROPERTY LOCATED AT 1537 ARMY POST ROAD**

WHEREAS, on August 17, 2020, by Roll Call No. 20-1324, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 6, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from McFadden Holdings, LLC (owner), represented by Steven McFadden (officer), to rezone the real property locally known as 1537 Army Post Road (“Property”) from RX1 Mixed Use District to Limited MX3 Mixed Use District, to allow the existing building to be used for a vehicle cleaning and detailing business, subject to the following condition:

1. Any use of the Property shall be limited to Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor, or any use permitted by right or by Conditional Use as allowed and regulated in the RX1 Mixed Use District; and

WHEREAS, on August 17, 2020, by Roll Call No. 20-1324, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on September 14, 2020 at 5:00 P.M., by electronic means in accordance with the Governor’s and Mayor’s Proclamations and to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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 September 14, 2020, by Roll Call No. 20-1510, the City Council opened and continued the hearing on said proposed rezoning to the City Council meeting on October 5, 2020 at 5:00 P.M., by electronic means; and

WHEREAS, in accordance with said notice and resolution continuing hearing, 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 locally known as 1537 Army Post Road, legally described as:

That part of Lots 41 and 42 Geil Place Plat Three, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa described as follows: The West 12.5 feet of the South 104.24 feet of lot 41 and the West 105.5 feet of Lot 42 (except the North 10 feet of the East 45 feet thereof) and except the South 10 feet of Lots 41 and 42 acquired by the State of Iowa for the widening of Army Post Road, Highway No. 29.

Also a perpetual easement in common with others for motor vehicle and foot travel, including the right to pave all or any part thereof, over a triangular parcel of land in said Lots 41 and 42,

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described as follows: Beginning at a point which is 10 feet north of the southeast corner of lot 41, thence West 25 feet, then North 40 feet, thence in a Southeasterly direction to the point of beginning.

from RX1 Mixed Use District to Limited MX3 Mixed Use District, to allow the existing building to be used for a vehicle cleaning and detailing business, subject to the condition stated above.

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 MX3 Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited MX3 Mixed Use 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:

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

(ZON2020-00081)

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

CERTIFICATE

I, P. KAY CMELIK, 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.

MOTION CARRIED

APPROVED

J. M. Franklin Cownie
Mayor

P. Kay Cmelik

City Clerk