



Roll Call Number

230227

Agenda Item Number

29

Date February 20, 2023

**RESOLUTION SETTING HEARING ON APPEAL OF GASSMANN REAL ESTATE, LLC  
ON A DENIAL OF TYPE 2 DESIGN ALTERNATIVES FOR A PUBLIC HEARING SITE  
PLAN FOR PROPERTY LOCATED AT 2822 6TH AVENUE**

**WHEREAS**, at a public hearing held on January 19, 2023, the City Plan and Zoning Commission considered a request from Gassmann Real Estate (owner), represented by Jason Gassmann (Owner), for approval of the Site Plan for Type 2 Design Alternatives waiving the requirement for maximum fence height in street-side yards set forth in Municipal Code Section 135-7.11.3(B)(2) and requirement that no fence shall be electrified set forth in Municipal Code Section 135-7.11.4(B), related to the proposed 10 foot electrified fence installation as shown in the Site Plan submitted for the property located at 2822 6<sup>th</sup> Avenue; and

**WHEREAS**, pursuant to Section 135-7.11.3(B)(2) of the Municipal Code, a fence in a street-side yard is restricted to a maximum of six (6) feet of height; and

**WHEREAS**, pursuant to Section 135-7.11.4(B) of the Municipal Code, no fence shall be electrified, unless all of the following requirements are met:

1. The fence is electrified by a device approved by a nationally recognized testing laboratory as meeting the standard for safety of electric fence controllers, and bears a certificate stated as such.
2. The fence is used in accordance with the manufacturer's suggested installation instructions.
3. The fence is used to confine agricultural animals lawfully kept in compliance with the requirements of chapter 18 of this code.; and

**WHEREAS**, in its Site Plan, Gassmann Real Estate, LLC proposed to construct a ten (10) foot tall electric security fence in the northern section of the property and the security fence would be constructed twelve (12) inches behind an existing eight (8) foot tall, galvanized chain link fence; and

**WHEREAS**, the Plan and Zoning Commission voted 12-2 for **DENIAL** of the requested Type 2 Design Alternatives to waive or modify said ordinance requirements to allow the installation of a 10 foot tall electrified fence; and

**WHEREAS**, Gassmann Real Estate, LLC 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 allowing the installation of a 10 foot tall electrified fence as regulated under Municipal Code Section 135-2.10.3(A)(8).

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23-022 7

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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 Gassmann Real Estate, LLC at a public hearing in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 5:00 p.m. on March 6, 2023 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

(FENC-2022-000563)

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

MOTION CARRIED

APPROVED

J. M. Franklin Cownie Mayor

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.

Laura Baumgartner

City Clerk