

Date February 25, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM MULVIHILL FARMS, INC. TO REZONE PROPERTY LOCATED AT 1145 AND 1147 24TH STREET

WHEREAS, on December 17, 2018, by Roll Call No. 18-2069, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on December 6, 2018, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Mulvihill Farms, Inc. (owner), represented by Robert Mulvihill, Jr. (officer), to rezone property locally known as 1145 and 1147 24th Street ("Property") from "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow expansion of off-street parking for existing multiple-family dwellings and for shared parking for nearby mixed-use, subject to the following rezoning conditions:

1. The following uses of structures and land shall be prohibited upon the Property:
 - a. Adult entertainment businesses;
 - b. Animal hospitals, veterinary clinics, or kennels;
 - c. Automotive and motorcycle accessory and parts store;
 - d. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 - e. Automobile washing establishments;
 - f. Ballrooms and dance halls;
 - g. Billiards parlors, pool halls and game rooms;
 - h. Carpenter and cabinet making shops for retail custom work;
 - i. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 - j. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
 - k. Delayed deposit services;
 - l. Drive-in theaters;
 - m. Garage for general motor vehicle repair;
 - n. Gas stations/convenience stores;
 - o. Lawn mower repair shops;
 - p. Liquor stores and other businesses where more than 40 percent of gross receipts is derived from the sale of alcoholic liquors, wine, beer and tobacco.
 - q. Locker plant;
 - r. Lumber yards;
 - s. Mini-warehouse;
 - t. Mobile home parks;
 - u. Monument sales yards;

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- v. Off-premises advertising signs.
 - w. Pawn brokers;
 - x. Plumbing and heating shops;
 - y. Radio stations;
 - z. Sheet metal shops;
 - aa. Sign painting shops;
 - bb. Taverns and nightclubs; and
 - cc. Used car sales lots.
2. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District; and

WHEREAS, on December 17, 2018, by Roll Call No. 18-2069, it was duly resolved by the City Council that the application of Mulvihill Farms, Inc. to rezone the Property, as legally described below, be set down for hearing on January 14, 2019 at 5:00 p.m. in the Council Chambers at City Hall; 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 amendment to the Zoning Ordinance; and

WHEREAS, on January 14, 2019, by Roll Call No. 19-0082, the City Council opened and continued said hearing to January 28, 2019 at 5:00 p.m. in the City Council Chambers; and

WHEREAS, on January 28, 2019, by Roll Call No. 19-0161, the City Council opened and continued said hearing to February 25, 2019 at 5:00 p.m. in the City Council Chambers; 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 locally known as 1145 and 1147 24th Street, legally described as:

LOTS 25 AND 26 DRAKE UNIVERSITY 3RD ADDITION, AN OFFICIAL PLAT, NOW INCLUDED
IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner(s) of the Property, which is binding upon the owner(s) and their successors, heirs and assigns.

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 revised Limited "NPC" Neighborhood



Roll Call Number

Agenda Item Number

47B

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Pedestrian Commercial District with conditions set forth above, to remove an existing zoning condition and allow expansion of the campus for an emergency generator and additional surface parking, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by _____ to adopt and **APPROVE** the proposed rezoning, and to find that the proposed rezoning of the Property to Limited "NPC" Neighborhood Pedestrian Commercial District with conditions as set forth above 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.

Alternative B

MOVED by _____ to continue the public hearing until March 25, 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

(ZON2018-00234)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

I, DIANE RAUH, 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.

Mayor

City Clerk