



Date March 25, 2019

**RESOLUTION HOLDING HEARING ON REQUEST FROM MULVIHILL FARMS, INC. TO REZONE PROPERTY LOCATED AT 1145 AND 1147 24<sup>TH</sup> 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 24<sup>th</sup> 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**, on February 25, 2019, by Roll Call No. 19-0315, the City Council opened and continued said hearing to March 25, 2019 at 5:00 p.m. in the City Council Chambers and directed staff to add a rezoning condition as follows:

3. Vehicular access to the Property shall be limited to occur only from the west of the Property off of 24<sup>th</sup> Street; and

**WHEREAS**, the applicant is not in agreement with the additional condition #3, and has signed an Acceptance of Rezoning Ordinance agreeing only to conditions #1 and 2 stated above; 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 24<sup>th</sup> Street, legally described as:

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



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from "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, subject to the conditions # 1 and 2 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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "NPC" Neighborhood Pedestrian Commercial District with conditions as set forth above, are hereby received, and the hearing is closed.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

(ZON2018-00234)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
<b>TOTAL</b>				
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