



Roll Call Number

17-2011

Agenda Item Number

60

Date November 20, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
TOBI PARKS TO REZONE PROPERTY AT 1159 24<sup>TH</sup> STREET**

**WHEREAS**, on November 6, 2017, by Roll Call No. 17-1889, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 19, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Tobi Parks d/b/a Harvey Parks Properties (purchaser), to rezone property locally known as 1159 24<sup>th</sup> Street ("Property") from Limited "NPC" Neighborhood Pedestrian Commercial District to revised Limited "NPC" Neighborhood Pedestrian Commercial District, to remove the condition prohibiting a tavern and nightclub use to allow the applicant to seek a Conditional Use Permit for a business selling liquor, wine and beer as part of a proposed principal gallery use and event assembly use of the Property, subject to the following rezoning conditions:

A. The following uses of structures and land shall not be permitted upon the property:

1. Gas stations;
2. Locker plant;
3. Automotive and motorcycle accessory and parts store;
4. Lawn mower repair shops;
5. Radio stations;
6. Animal hospitals, veterinary clinics, or kennels;
7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
8. Ballrooms and dance halls;
9. Billiards parlors, pool halls and game rooms;
10. Carpenter and cabinet making shops for retail custom work;
11. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
12. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
13. Drive-in theaters;
14. Lumber yards;
15. Mini-warehouse;
16. Monument sales yards;
17. Any business holding a liquor license, beer or wine permit which is not operated as either:
  - a. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or



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- b. a gallery and performing arts assembly use that occupies no more than 3,000 square feet of gross floor area (considered a tavern under provisions of the Zoning Ordinance) that is operated in compliance with an approved Conditional Use Permit including, but not limited to, hours of operation, sales requirements, and parking arrangements;
- 18. Plumbing and heating shops;
- 19. Sheet metal shops;
- 20. Sign painting shops;
- 21. Mobile home parks;
- 22. Used car sales lots;
- 23. Garage for general motor vehicle repair;
- 24. Automobile washing establishments;
- 25. Adult entertainment businesses; and
- 26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District; and

**WHEREAS**, on November 6, 2017, by Roll Call No. 17-1889, it was duly resolved by the City Council that the application of Tobi Parks d/b/a Harvey Parks Properties to rezone the Property, as legally described below, be set down for hearing on November 20, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center; 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**, in accordance with said notice, 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 1159 24<sup>th</sup> Street, legally described as:

Lot 22, DRAKE UNIVERSITY 3RD ADDITION, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from Limited "NPC" Neighborhood Pedestrian Commercial District to revised Limited "NPC" Neighborhood Pedestrian Commercial District, to remove the condition prohibiting a tavern and nightclub use to allow the applicant to seek a Conditional Use Permit for a business selling liquor, wine and beer as part of a proposed principal gallery use and event assembly use of the Property, 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.



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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 revised Limited "NPC" Neighborhood Pedestrian Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to revised 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.

MOVED BY Hensley TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2017-00142)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk