



Roll Call Number

18-1446

Agenda Item Number

49

Date August 20, 2018

RESOLUTION HOLDING HEARING ON REQUEST FROM KENNETH L. LAWLER TO REZONE PROPERTY AT 4455 AND 4465 HUBBELL AVENUE

WHEREAS, on July 9, 2018, by Roll Call No. 18-1153, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on June 21, 2018, its members voted 11-0 in support of a motion to recommend APPROVAL of a request from Kenneth L. Lawler d/b/a Great Plains Garden Center, Inc. (owner), to rezone property locally known as 4455 and 4465 Hubbell Avenue ("Property") from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow use of the Property for commercial daycare center and a residential dwelling, subject to the following rezoning conditions:

- 1. Sidewalks shall be constructed along the adjoining public street frontages as required and allowed by Traffic Engineering with any Site Plan development.
2. Vehicular driveway access for the property shall only be developed from East 44th Street.
3. Any change of use of the existing building shall require a review of a Site Plan and Commercial Building Plans with approval and issuance of all necessary permits by the City's Permit and Development Center.
4. The following uses of the property shall be prohibited:
a. Adult Entertainment Business,
b. Off-Premises Advertising Signs,
c. Vehicle Display Lots,
d. Businesses Selling Liquor,
e. Pawn Brokers,
f. Delayed Deposit Services; and
g. Taverns/Nightclubs; and

WHEREAS, on July 9, 2018, by Roll Call No. 18-1153, it was duly resolved by the City Council that the application of Kenneth L. Lawler to rezone the Property, as legally described below, be set down for hearing on July 23, 2018 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 July 23, 2018, by Roll Call No. 18-1294, and on August 6, 2018, by Roll Call No. 18-1371, the City Council opened and continued the public hearing; 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 4455-4465 Hubbell Avenue, legally described as:

LOT 7 AND THE WEST 60 FEET OF LOT 8 (EXCEPT THE WEST 2.0 FEET LYING ADJACENT TO AND PARALLEL TO THE SOUTH ROW LINE OF U.S. HIGHWAY 6) OF CAPITOL HEIGHTS, PLAT



Roll Call Number

18-1446

Agenda Item Number

49

Date August 20, 2018

NO. 2, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow use of the Property for commercial daycare center and a residential dwelling, 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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented 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 Westergaard TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2018-00088)

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

MOTION CARRIED APPROVED J. M. Franklin Councilor

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.

Diane Rauh City Clerk