



Roll Call Number

18-1940

Agenda Item Number

44B

Date November 19, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM BOYER & BOYER, LLC
TO REZONE PROPERTY LOCATED AT 2900 EASTER LAKE DRIVE**

WHEREAS, on November 5, 2018, by Roll Call No. 18-1838, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 18, 2018, its members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from Boyer & Boyer, LLC (purchaser), represented by Blake Boyer, to rezone property locally known as 2900 Easter Lake Drive ("Property") from "R1-90" Large-Lot One-Family Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow continuation of the existing daycare center on the Property, subject to the following rezoning conditions:

1. Permitted uses shall only include those as allowed in the "R1-90" District and a daycare center.
2. Any use of the Property for a daycare center shall comply with requirements for a change of occupancy under the applicable Building and Fire Codes and shall comply with an approved Site Plan, with permits issued by the Permit and Development Center; and

WHEREAS, on November 5, 2018, by Roll Call No. 18-1838, it was duly resolved by the City Council that the application of Boyer & Boyer, LLC to rezone the Property, as legally described below, be set down for hearing on November 19, 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, 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 2900 Easter Lake Drive, legally described as:

THE NORTH 380 FEET OF THE SOUTH 430 FEET OF THE EAST 340 FEET OF THE WEST 1000 FEET OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. CONTAINING 2.966 ACRES, MORE OR LESS

from "R1-90" Large-Lot One-Family Residential District to Limited "C-1" Neighborhood Retail Commercial District, subject to the conditions stated above as agreed to and accepted by execution

★ Roll Call Number

18-194D

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of an Acceptance of Rezoning Ordinance in writing by the owner(s) and purchaser 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-1" Neighborhood Retail 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-1" Neighborhood Retail 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 Gatto TO ADOPT.

FORM APPROVED:

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

(ZON2018-00198)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to written protest being filed by the owner(s) of at least 20 percent of adjoining property located within 200 feet of the exterior boundaries of 2900 Easter Lake Drive. Des Moines City Code §134-4.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

J. M. Franklin Cownie Mayor

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