



Roll Call Number

19-0420

Agenda Item Number

63B

Date March 11, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM FULL COURT PRESS, INC. TO REZONE PROPERTY LOCATED AT 3506 UNIVERSITY AVENUE

WHEREAS, on February 25, 2019, by Roll Call No. 19-0282, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on February 7, 2019, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Full Court Press, Inc. (owner), represented by Jeff Bruning (officer), to rezone property located at 3506 University Avenue ("Property") from "R-3" Multiple-Family Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow the existing restaurant use to be reclassified to a tavern use, subject to the following conditions:

- A. The following uses of structures and land shall not be permitted upon the Property:
1. Any business holding a liquor license, wine permit, or beer permit that is not operated as either:
 - a. a restaurant where at least half of whose gross income is derived from the sale of prepared food and food-related services; or
 - b. a tavern, which has a kitchen and offers a full menu for food service at all times that the business is open to customers, so long as the Zoning Board of Adjustment grants a Conditional Use Permit allowing and further regulating such use;
 2. Gas stations;
 3. Locker plant;
 4. Automotive and motorcycle accessory and parts store;
 5. Lawn mower repair shops;
 6. Radio stations;
 7. Animal hospitals, veterinary clinics, or kennels;
 8. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 9. Ballrooms and dance halls;
 10. Billiards parlors, pool halls and game rooms;
 11. Carpenter and cabinet making shops for retail custom work;
 12. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 13. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
 14. Drive-in theaters;
 15. Lumber yards;
 16. Mini-warehouse;
 17. Monument sales yards;



Roll Call Number

19-0420

Agenda Item Number

03B

Date March 11, 2019

- 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 February 25, 2019, by Roll Call No. 19-0282, it was duly resolved by the City Council that the application of Full Court Press, Inc. to rezone the Property, as legally described below, be set down for hearing on March 11, 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, 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 3506 University Avenue, legally described as:

THE NORTH 50 FEET OF THE EAST 180 FEET OF LOT 1 KAUFMANN PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "R-3" Multiple-Family Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow the existing restaurant use to be reclassified to a tavern use, 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 "NPC" Neighborhood Pedestrian Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.



Roll Call Number

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2. 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.

MOVED BY Mandelbaum TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2018-00248)

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

MOTION CARRIED

APPROVED

J. M. Franken 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