



Roll Call Number

13-1594

Agenda Item Number

44A-2

Sub-Item A(2)

Date October 7, 2013

RESOLUTION CLOSING HEARING ON THE APPLICATION OF MULVIHILL FARMS, INC., TO REZONING PROPERTY IN THE VICINITY OF 1139 24th STREET FROM THE "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO A LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT AND CONDITIONALLY APPROVING SAME

WHEREAS, on September 23, 2013 by Roll Call No. 13-1478, it was duly resolved by the City Council that the application of Robert J. Mulvihill, Jr., on behalf of Mulvihill Farms, Inc., the owner of the property at 1139 24th Street more fully described below, to rezone such property from the "R1-60" One-Family Low-Density Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District classification, be set down for hearing on October 7, 2013, at 5:00 p.m., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on September 26, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with the notice those interested in the 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 at 1139 24th Street, more specifically described as follows:

Lot 27, 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 the "R1-60" One-Family Low-Density Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

The following uses of land and structures shall be prohibited upon the Property:

- a) Taverns and nightclubs;
- b) Billiard parlors/game rooms;
- c) Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
- d) Delayed deposit services;
- e) Pawn brokers;

( continued )



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- f) Gas stations/convenience stores;
- g) Off premises advertising signs; and,
- h) Liquor stores and other business where more than 40 percent of gross receipts is derived from the sale of alcoholic liquors, wine, beer and tobacco.

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, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "NPC" Neighborhood Pedestrian Commercial District classification are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan as heretofore amended.

MOVED by Hensley to adopt and APPROVE the rezoning, subject to final passage of the rezoning ordinance.

NOTE: The resolution approving the amendment to the 2020 Community Character Plan in Subitem A(1) must be passed with, or prior to, the approval of this resolution to support the finding that the rezoning is in conformance with the Des Moines 2020 Community Character Land Use Plan.

FORM APPROVED:

Roger K. Brown  
Roger K. Brown  
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY		✓		
MEYER	✓			
MOORE	✓			
TOTAL	6	1		

MOTION CARRIED APPROVED  
T. M. Franklin 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