



**Roll Call Number**

**Agenda Item Number**

48C

**Date** March 25, 2019

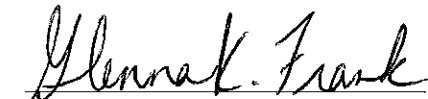
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 1145 and 1147 24<sup>th</sup> Street from the "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District classification",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
Glenna K. Frank

Assistant City Attorney

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

MOTION CARRIED APPROVED

\_\_\_\_\_  
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.

\_\_\_\_\_  
City Clerk

48C

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
 Phone: 515/283-4530  
 Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309  
 Title of Document: City of Des Moines, Ordinance No. \_\_\_\_\_  
 Grantor/Grantee: City of Des Moines, Iowa  
 Legal Description: See page 1, below.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 1145 and 1147 24<sup>th</sup> Street from the "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 1145 and 1147 24<sup>th</sup> Street, more fully described as follows, from the from the "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District classification:

LOTS 25 AND 26 DRAKE UNIVERSITY 3<sup>RD</sup> ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) The following uses of structures and land shall be prohibited upon the Property:
  - a. Adult entertainment businesses;
  - b. Animal hospitals, veterinary clinics, or kennels;
  - c. Automotive and motorcycle accessory and parts store;
  - d. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
  - e. Automobile washing establishments;
  - f. Ballrooms and dance halls;
  - g. Billiards parlors, pool halls and game rooms;
  - h. Carpenter and cabinet making shops for retail custom work;
  - i. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
  - j. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
  - k. Delayed deposit services;
  - l. Drive-in theaters;
  - m. Garage for general motor vehicle repair;
  - n. Gas stations/convenience stores;
  - o. Lawn mower repair shops;
  - p. Liquor stores and other businesses where more than 40 percent of gross receipts is derived from the sale of alcoholic liquors, wine, beer and tobacco.
  - q. Locker plant;
  - r. Lumber yards;
  - s. Mini-warehouse;
  - t. Mobile home parks;
  - u. Monument sales yards;

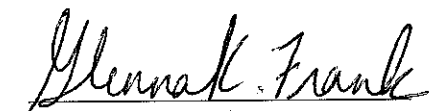
- v. Off-premises advertising signs.
- w. Pawn brokers;
- x. Plumbing and heating shops;
- y. Radio stations;
- z. Sheet metal shops;
- aa. Sign painting shops;
- bb. Taverns and nightclubs; and
- cc. Used car sales lots.

(2) Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 4. That the City Clerk is hereby authorized and directed to cause certified copies of the Acceptance of Rezoning Ordinance, this ordinance, vicinity map and proof of publication of this ordinance to be properly filed in the office of the County Recorder of the county in which the subject property is located.

FORM APPROVED:

  
Glenna K. Frank  
Assistant City Attorney

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Phone: 515/283-4530  
Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309  
Taxpayer: No change  
Title of Document: Acceptance of Rezoning Ordinance  
Grantor's Name: Mulvihill Farms, Inc. (Owner)  
Grantee's Name: City of Des Moines, Iowa  
Legal Description: LOTS 25 AND 26 DRAKE UNIVERSITY 3<sup>RD</sup> ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.  
(Hereinafter referred to as "Property")

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Mulvihill Farms, Inc. is the sole titleholder of the Property locally known as 1145 and 1147 24<sup>th</sup> Street and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, I agree and accept on behalf of the owner to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

- (1) The following uses of structures and land shall be prohibited upon the Property:
  - a. Adult entertainment businesses;
  - b. Animal hospitals, veterinary clinics, or kennels;
  - c. Automotive and motorcycle accessory and parts store;

- d. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
  - e. Automobile washing establishments;
  - f. Ballrooms and dance halls;
  - g. Billiards parlors, pool halls and game rooms;
  - h. Carpenter and cabinet making shops for retail custom work;
  - i. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
  - j. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
  - k. Delayed deposit services;
  - l. Drive-in theaters;
  - m. Garage for general motor vehicle repair;
  - n. Gas stations/convenience stores;
  - o. Lawn mower repair shops;
  - p. Liquor stores and other businesses where more than 40 percent of gross receipts is derived from the sale of alcoholic liquors, wine, beer and tobacco.
  - q. Locker plant;
  - r. Lumber yards;
  - s. Mini-warehouse;
  - t. Mobile home parks;
  - u. Monument sales yards;
  - v. Off-premises advertising signs.
  - w. Pawn brokers;
  - x. Plumbing and heating shops;
  - y. Radio stations;
  - z. Sheet metal shops;
  - aa. Sign painting shops;
  - bb. Taverns and nightclubs; and
  - cc. Used car sales lots.
- (2) Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.

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3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

**Mulvihill Farms, Inc.**



By: Robert Mulvihill, Jr.

State of Iowa            )  
                                  ) ss:  
County of Polk         )

On this 7<sup>th</sup> day of January, 2019, before me, a notary public, personally appeared Robert Mulvihill, Jr., to me personally known, who being by me duly sworn did say that he is President of Mulvihill Farms, Inc. an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation, and that he, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Notary Public in and for the State of Iowa

