

**To:** City of the Village of Douglas City Council  
**Date:** June 3, 2024  
**From:** Sean Homyen, Planning & Zoning Administrator  
**RE:** 6825 Wiley Road – Zoning of Annexed Parcel



*The Village of Friendliness – Since 1870*

**Background.** The parcel located at 6825 Wiley Road is a 16.77-acre (73,0501.2 square feet) parcel that the City of Douglas purchased from a private resident and annexed and from Saugatuck Township in 2013. The parcel was originally planned for the construction of a new DPW building, however, this plan never came to fruition and continues to be vacant.

The procedure to annex land from another jurisdiction is outlined in the Home Rule City Act (Public Act 279 of 1909). Section 16.05 of the Zoning Ordinance further provides procedures for the zoning of land that the City annexes. Section 16.05, Zoning of Annexed Lands states:

*Whenever any portion of any township becomes a part of the City or whenever any territory is annexed to and becomes part of the City, the then-existing zoning regulations for the territory being incorporated into the City shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the Douglas City Council shall lawfully adopt other zoning regulations ordinances.*

According to Section 16.05, the Saugatuck Township zoning district would have expired in July of 2015. The subject parcel has since been “unzoned” since that time, however, it has been included in the City’s Master Plan and Future Land Use.

In 2022, The City Council adopted an ordinance to establish procedures for the transfer of surplus real property. This ordinance defines “surplus real property” as real property that is no longer needed in the foreseeable future or has no practical benefit to the City. This ordinance enables the City Council to sell and transfer property in a fair and transparent manner, by outlining the procedures that the City must follow for selling such property designated as “surplus”.

At a recent meeting, the City Council considered the authorization of the subject parcel to be sold as surplus property, so that the process to accept bids from potential buyers could be initiated. The City Council ultimately determined that potential buyers of the parcel would need to know the permitted uses of the land before bidding. Since permitted land uses are determined by the zoning district, it was decided that the parcel should undergo the process of assigning a zoning district before authorizing the sale.

At the Planning Commission meeting on May 9, 2024, residents of Saugatuck Township mentioned that the intended use for the Wiley Road property was for parks in the 2015 Saugatuck/Douglas Parks & Recreation Plan. However, the Parks and Recreation plan was updated early of 2024 and does not include plans for the Wiley Road property for park use.

**Procedures.** The Planning Commission is required to conduct a public hearing to assign a zoning designation to an annexed parcel, following the same procedure as for the rezoning of a parcel. This process technically constitutes an amendment to the zoning ordinance and map. However, during the May 9, 2024 Planning Commission meeting, a procedural oversight occurred when a motion resulted in a tie vote. In response, the Planning Commission opted to table the item through another motion. Subsequently, the City Clerk sought guidance from the City Attorney regarding this matter. According to procedural norms, in the event of a tie vote, the motion fails. Consequently, this paves the way for the zoning of the Wiley property to proceed to the City Council for further consideration. The Planning Commission Members were informed of this procedural clarification via email communication from the City Clerk.

Section 28.02 provides procedures for the review and approval of amendments. At the June 3, 2024, meeting, the City Council is tasked with the final approval of the proposed zoning district designation to an annexed parcel and will hold a first reading. The second reading will be held on June 17, 2024 meeting. The Planning and Zoning Administrator's report to the Planning Commission dated April 19, 2024 is also included for your reference in the Council packet for review of procedures of assigning a zoning designation, analysis of the amendment criteria, and resolution of the purchasing of the property.

Dear Planning Commission,

I hope this email finds you well. I am writing to bring to your attention a procedural error that occurred during the Planning Commission meeting held on Thursday, May 9th.

During the meeting, there was a request on the agenda to approve or not approve the recommendation to Council of the 17-acres to R-5 zoning designation. Following the public hearing, a vote was taken on the motion, resulting in a tie. As per our established procedures, in the event of a tie vote, the motion fails.

However, it has come to our attention that subsequent to the tied vote, the Planning Commission decided to table the item with another motion. I want to highlight that this action was not procedurally permissible. Once the motion to zone the property to R-5 failed due to the tied vote, the issue was considered concluded, and the matter was to proceed to the City Council without further action from the Planning Commission. The City Attorney reviewed this matter and pointed out that pursuant to section 28.02 of the Zoning Code, the City Council may initiate a rezoning of land "on its own motion. Thus, the action of the Planning Commission does not preclude action by the City Council to zone the Wiley Road parcel on its own initiative.

Therefore, I am requesting that the Planning Commission acknowledges this procedural error. As per our protocols, the issue of rezoning the 17-acres to R-5 should now be forwarded to the City Council for their consideration.

Saying this, as the City Manager indicated, the City Council has approved a professional agreement with Ryan Kilpatrick, owner of Flywheel, to conduct a workshop, date TBD, to discuss options for affordable/attainable housing in the City of Douglas. Nothing has been determined as it pertains to specific sites, and there is currently no plan in place to develop any properties. However, it is important that the City zone the property for future development options, as it is currently not zoned. We do hope that when the workshop does commence, that each of you will be present for it.

I appreciate your attention to this matter and your commitment to upholding proper procedures in our decision-making processes. Should you have any questions or require further clarification, please do not hesitate to contact me.



*Laura Kasper*

**To:** City of the Village of Douglas Planning Commission

**Date:** April 19, 2024

**From:** Sean Homyen, Planning & Zoning Administrator

**RE:** 6825 Wiley Road – Zoning of Annexed Parcel



*The Village of Friendliness – Since 1870*

**Background.** The parcel located at 6825 Wiley Road is a 16.77-acre (73,0501.2 square feet) parcel that the City of Douglas annexed and purchased in 2013 from Saugatuck Township. The parcel was originally planned for the construction of a new DPW building, however, this plan never came to fruition and continues to be vacant.

The procedure to annex land from another jurisdiction is outlined in the Home Rule City Act (Public Act 279 of 1909). Section 16.05 of the Zoning Ordinance further provides procedures for the zoning land that the City annexes. Section 16.05, Zoning of Annexed Lands states:

*Whenever any portion of any township becomes a part of the City or whenever any territory is annexed to and becomes part of the City, the then-existing zoning regulations for the territory being incorporated into the City shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the Douglas City Council shall lawfully adopt other zoning regulations ordinances.*

According to Section 16.05, the Saugatuck Township zoning district would have expired in July of 2015. The subject parcel has since been “unzoned” since that time, however, it has been included in the City’s Master Plan and Future Land Use.

In 2022, The City Council adopted an ordinance to establish procedures for the transfer of surplus real property. This ordinance defines “surplus real property” as real property that is no longer needed in the foreseeable future or has no practical benefit to the City. This ordinance enables the City Council to sell and transfer property in a fair and transparent manner, by outlining the procedures that the City must follow for selling such property designated as “surplus”.

At a recent meeting, the City Council considered the authorization of the subject parcel to be sold as surplus property, so that the process to accept bids from potential buyers could be initiated. The City Council ultimately determined that potential buyers of the parcel would need to know the permitted uses of the land before bidding. Since permitted land uses are determined by the zoning district, it was decided that the parcel should undergo the process of assigning a zoning district before authorizing the sale.

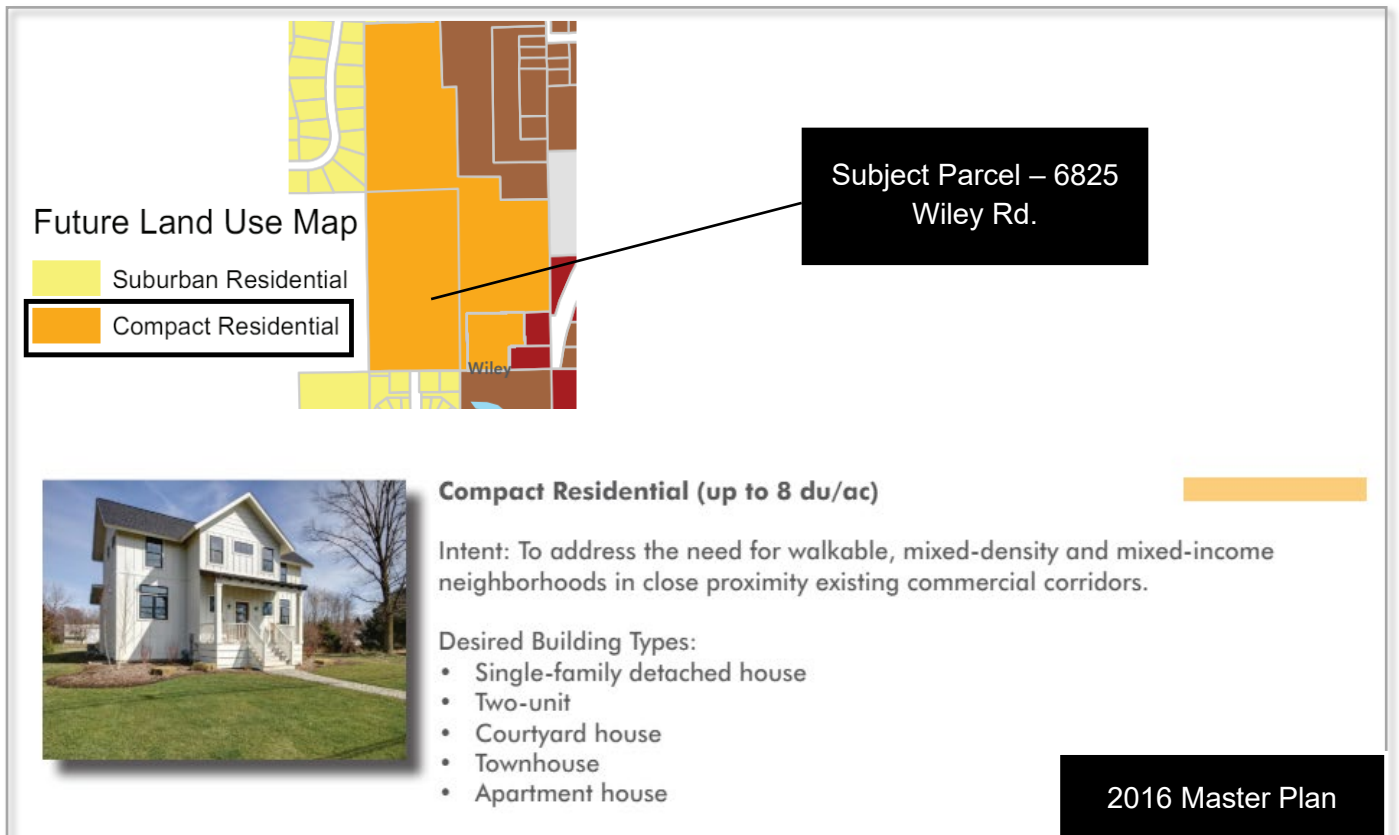
**Procedures.** The Planning Commission must hold a public hearing to assign a zoning designation to an annexed parcel in the same manner it would for a rezoning of a parcel. Giving the parcel a zoning designation is technically considered an amendment of the zoning ordinance and map.

Section 28.02 provides procedures for the review and approval of amendments. The Planning Commission is tasked with recommending the designation of a zoning district to the City Council. The City Council is the final reviewing authority for any amendment to the Zoning Ordinance and will hold two readings of the proposed zoning designation.

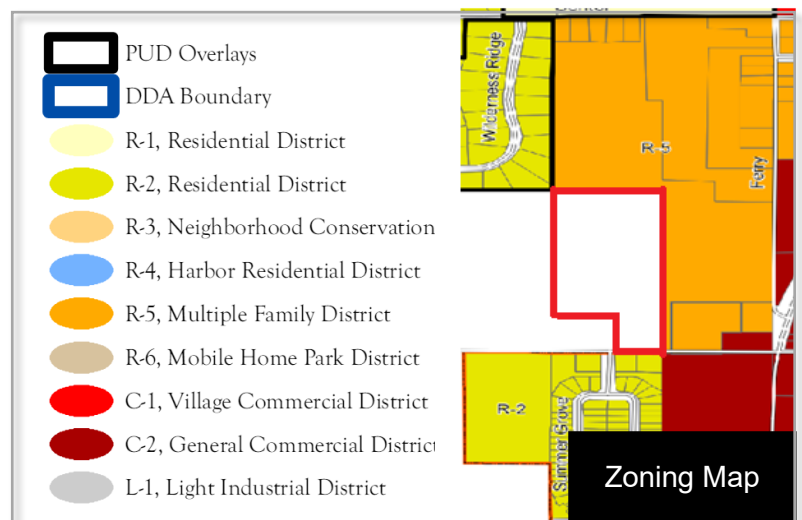
**Assigning a Zoning Designation.** The Planning Commission would normally take the criteria listed in Section 28.06 into consideration when making decisions on *rezonings*. Because the subject parcel is not being *rezoned* and is simply being given a zoning designation when there was not one before, the Future Land Use map and text within the Master Plan shall serve as the guide for designating an appropriate zoning district. The rezoning criteria are listed below for your reference, though many are not applicable.

- a. *What, if any, identifiable conditions related to the application have changed since the existing zoning district was established which justify the proposed amendment?*
- b. *What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?*
- c. *What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?*
- d. *Does the petitioned district change adversely affect environmental conditions, or the rights of a neighboring property owner?*
- e. *Is the class of uses permitted in the district appropriate for the location proposed to be rezoned?*
- f. *Does the petitioned district change generally comply with the Tri-Community Comprehensive Plan, or a subsequent document that guides land use and development decisions in the City of the Village of Douglas?*
- g. *What is the ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located?*

The current Master Plan designates the subject parcel as “Compact Residential”. The Future Land Use map and text are shown below.



Based on the Future Land Use designation and the existing zoning of adjacent parcels, staff has determined that R-5, Multiple Family Residential is the most appropriate zoning district for the subject parcel.



## **RECOMMENDATION**

Based on the findings outlined in this staff report, staff is recommending that the Planning Commission provide a favorable recommendation to the City Council to approve the zoning designation of the 6825 Wiley Road parcel to R-5, Multiple Family Residential.

## **SUGGESTED MOTION**

*I move to forward a recommendation for [approval/denial] of the assignment of the R-5, Multiple Family zoning district to the parcel located at 6825 Wiley Road (PPN 59-017-089-40) annexed by the City of the Village of Douglas, based on the findings outlined in the staff report dated May 3, 2024.*

Please feel free to reach out with any questions.

CITY OF THE VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 02-2022

**AN ORDINANCE TO ESTABLISH PROCEDURES FOR  
TRANSFER OF SURPLUS REAL PROPERTY FOR  
THE CITY OF THE VILLAGE OF DOUGLAS**

**THE CITY OF THE VILLAGE OF DOUGLAS DOES HEREBY ORDAIN AS  
FOLLOWS:**

**Section 1: PURPOSE AND SCOPE**

The purpose of the Surplus Real Property Transfer Ordinance is to provide a framework for the transfer of City real property deemed to be surplus. This Ordinance is intended to create a process to transfer of Real Property that is transparent to the community, fair, equitable, and consistent with the best interests of the City.

**Section 2: DEFINITIONS**

*Transfer:* Disposal shall mean the transfer of control or ownership of real property considered by the City to be surplus, by means of a sale or lease, to include preparing, negotiating and executing a written contract, where necessary. This ordinance shall not apply to intragovernmental property transfers pursuant to Act 425 of 1984, as amended.

*Notice of Intent– Request for Bid:* The notice prepared by the City announcing that the City will receive bids for the sale or lease of Surplus Real Property. The notice shall also provide prospective purchasers with direction on where or how they may obtain specific information concerning the Surplus Real Property and the sealed bid process.

*Practical Use:* The use of something for a reasonable purpose.

*Proprietary Fund:* Fund that charges a fee to cover the cost of operations.

*Real Property:* Any fixed property (i.e., buildings, land, etc.) controlled or owned by the City, from which the City expects to derive economic benefit for service delivery to the general public. This Ordinance is not intended to apply to Personal Property (i.e., automobiles/vehicles, electronics, furniture, machinery and tools, miscellaneous equipment, or office machines.) except as incidental to the sale of Real Property pursuant to a purchase agreement.

*Surplus Real Property:* Real property that is no longer needed in the foreseeable future or has no practical benefit to the City.



### **Section 3: APPLICABILITY**

This Ordinance applies to all City owned real property except:

- Real property purchased with grant funds which shall be disposed of in accordance with applicable grant requirements, if any.
- Seized or unclaimed property within the Police Department which shall be handled and disposed of in accordance with applicable Federal, State, and Local requirements.

This Ordinance applies to all City Officials, employees and users including, but not limited to, full time, part time, and intermittent / seasonal / contracted employees.

### **Section 4: REAL PROPERTY GUIDELINES**

1. The City Manager or designee will review City owned real property and recommend to Council if any City owned real property is surplus.
2. Disposing of real property by City Officials or employees for personal gain or to benefit the interest of any person or party other than the City is strictly prohibited.
3. Sale of land or other real property requires City Council authorization and may require a vote of the majority of electors as provided in Chapter 13 of the City Charter.
4. Sale of Surplus Real Property shall be done by passing an ordinance.
  - a. The City shall retain an easement on all properties where public utilities exist or where future development may conceivably require public utilities.
  - b. The City may retain an easement for ingress/egress over properties to access and/or maintain other City Properties, facilities, or services.
5. Real property may be conveyed by quit claim deed.
6. The City shall not sell, transfer or convey real property or any other parcel of City owned real property to any individual or entity who is in default of any contract or obligation with the City, including but not limited to a prospective purchaser who is shown in the City records to have delinquent City real or personal property taxes or special assessments, outstanding invoices for City services, or has received a notice or citation for violation of any City ordinance, rule or regulation, unless the default, delinquency or violation is corrected prior to City Council's consideration of the sale or other disposition of the real property.

7. The purchaser of real property shall agree to pay and be responsible to pay for any mortgage or title insurance policy, all costs in applying for and securing financing or assuming existing financing, all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, , costs in connection with matters relating to purchaser's use or intended use of the real property, including but not limited to, re-zoning, special use permits, variances, soil borings, surveying, rights-of-way, site plan preparation, sanitary sewer lines, water lines and other matters related to development of the real property, and purchaser's broker and attorney fees, and any other conditions that may apply.

### **Section 5: METHODS OF TRANSFER**

Following are the allowable methods of transfer of Surplus Real Property:

1. **Sale or Lease through sealed bids/offers** after Notice of Intent – Request for Bid
  - a. The City shall publish at least one time a Notice of Intent – Request for Bid in customary locations. An appraisal shall be done prior to a Notice of Intent – Request for Bid for all real property.
    - i. The notice of intent shall at a minimum:
      1. Describe the Surplus Real Property and minimum bid price.
        - a. The minimum bid price shall be at least 80% of appraised value.
      2. The notice shall allow a minimum of 30 days for the submission of responses proposals, leases, offers, and/or bids.
  - b. All offers shall be presented in a sealed envelope in writing and signed by the prospective buyer/ lessor and contain the following information:
    - i. Name, address, telephone number
    - ii. Total purchase price/ lease price (annual)
    - iii. Terms of sale or lease
    - iv. Any contingencies
  - c. The offer shall contain the following additional information
    - i. Parcel number and street address
    - ii. Proposed use and development of the property
    - iii. Anticipated method of financing
    - iv. Number of jobs to be created/retained and average job wage (if commercial or industrial)
    - v. Hours of operation (if downtown or commercial)
  - d. The City may apply the following preferences for real property:
    - i. For residential real property: preference will be given to purchasers that will construct a home on a vacant property. Adjoining property owners will be given preference if the real property is unbuildable because of zoning, other codes or laws, environmental or economic factors.
    - ii. For commercial real property: preference will be given based on the number of jobs created and dollar amount of total investment.

- e. The City may reject all offers and decline to enter a sale or lease up until the time of execution of the deed or lease when it is in the best interests of the City.
- f. City Employees shall not participate in in this method of transfer.

2. **Sale through Auction** In the event the Surplus Real Property cannot be sold after following the above procedures, the Surplus Real Property shall be sold through auction

- a. Any expense incurred in conducting the auction shall be deducted from the auction receipts.
- b. Employees may participate in public auction or sale of City Surplus Real Property.

**Section 6: Property Transfer Request Form**

The City Manager or designee shall notify the Treasurer's Department, Planning and Zoning, Assessor, and City Clerk's Office of the sale or lease of any real property. This shall be coordinated to update City records (i.e., capital improvement documents, insurance records, audit lists and grant requirement documentation). This shall be done by filling out the Property Disposition Request form kept with the City Treasurer.

**Section 7: SALE PROCEEDS**

All proceeds, after expense of sale, shall be allocated by the methods outlined below:

Proprietary Funded Surplus Real Property – If Surplus Real Property was purchased with proprietary funds, all proceeds from the sale of the Surplus Real Property shall be deposited into the proprietary fund in which the original purchase was sourced.

Non-Proprietary Funded Surplus Real Property- If the intent of the disposal was to offset the acquisition of a newer real property, those funds shall be used to reduce the purchase price of the new acquisition. If the proceeds were greater than anticipated, the remaining proceeds shall be deposited into the General Fund.

**Section 8: PUBLIC RECORDS**

All City owned property is public record, therefore records of sales or leases of Surplus Real Property must be maintained by the City Clerk's Office.

Public records will be managed in compliance with applicable local, State and Federal laws, regulations, and policies including the Freedom of Information Act, Open Meetings Act, and Public Records retention schedules, Copyright Law and other applicable City policies.

Ordinance Offered by: Seabert

Ordinance Supported by: Toepper

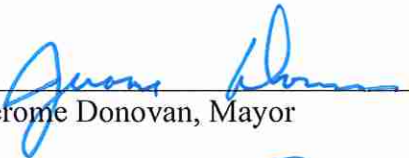
Ayes: Donovan, Miller, Nauman, Seabert, Toepper

Nays: None

Abstain: None

Absent: North, Van Loon

Ordinance Declared Adopted.

  
Jerome Donovan, Mayor

2-22-2022  
Date

  
Pamela Aalderink, City Clerk

2/22/2022  
Date

Ordinance Adoption Date: February 21, 2022

Ordinance Effective Date: 20 days after adoption and publication

**CITY OF THE VILLAGE OF DOUGLAS**

**ALLEGAN COUNTY, MICHIGAN**

**ORDINANCE NO.04-2024**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND MAP**

**TO DESIGNATE THE 6825 W. WILEY RD (PPN 59-017-089-40)**

**SECTION 017, CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN**

**PREAMBLE**

**WHEREAS**, The City of the Village of Douglas annexed the parcel known as 6825 Wiley Road (PPN 59-017-089-40) (“the Property”) from Saugatuck Township in 2015, and it remained zoned R-4, Lakeshore Transitional Residential for two years following the annexation, per Section 16.05, Zoning of Annexed Lands, of the City of the Village of Douglas Zoning Ordinance; and

**WHEREAS**, The City finds that the Property was not given a zoning designation after the two years specified by Section 16.05 for the previous zoning district to be in effect;

**WHEREAS**, the 2016 Master Plan provides for a future land use designation of Compact Residential, which is compatible with the R-5, Multiple Family Zoning District, and consistent with the existing zoning of adjacent parcels, the City hereby designates the zoning of the Property as R-5, Multiple Family Residential.

**WHEREAS**, pursuant to Article 28 of the Douglas Zoning Ordinance, adding a zoning designation or changing a zoning designation constitutes an amendment to the Official Zoning Map of the City of the Village of Douglas, requiring a public hearing by the Planning Commission and Approval by City Council;

**WHEREAS**, pursuant to and in compliance with Act 110 of 2006 of the Public Acts of Michigan, being the Zoning Enabling Act as amended, the Planning Commission conducted a public hearing on May 9, 2024

THE CITY OF THE VILLAGE OF DOUGLAS HEREBY ORDAINS:

The City of the Village of Douglas Zoning Ordinance, adopted in 2009, as amended, is hereby amended as follows:

**SECTION 1. ASSIGNMENT OF ZONING DESIGNATION.** The zoning designation of R-5, Multiple Family Residential to the entire parcel located at 6825 Wiley Road (59-017-089-40), legally described below to R-5, Multiple Family Residential.

**LEGAL DESCRIPTION**

ALL THAT PT OF W 1/2 E 1/2 SE 1/4 LYING S OF A LIN EXTENDING FROM SW COR FELKERS L S SUBDV TH E TO W LIN E 1/2 E 1/4 SE 1/4 EX S 200' OF W 400' OF E 1309.85' ALSO EX COM 1309.85' W OF SE 1/4 COR TH N 200' TO POB TH CONT N 100' TH E 100' TH S 100' TH W 100' TO POB SEC 17 T3N R16W (2016).

**SECTION 2. SEVERABILITY AND CAPTIONS.** This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

**SECTION 3. REPEAL.** Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

**SECTION 4. EFFECTIVE DATE.** This Ordinance is ordered to take effect upon the expiration of twenty (20) days following publication of adoption in the Commercial Record, a newspaper having general circulation in the City, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

Ordinance Offered by: \_\_\_\_\_

Ordinance Supported by: \_\_\_\_\_

Ayes:

Nays:

Abstain:

Absent:

**ORDINANCE DECLARED ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024**

\_\_\_\_\_  
Cathy North, Mayor

\_\_\_\_\_  
Laura Kasper, City Clerk

Ordinance Adoption Date: \_\_\_\_\_ (to be published within 15 days of adoption)

Ordinance Effective Date: \_\_\_\_\_ (20 days after publication)