


# COUNCIL COMMUNICATION

	Number:	<b>22-399</b>	Meeting:	<b>September 12, 2022</b>
	Agenda Item:	<b>71</b>	Roll Call:	<b>22-1473</b>
	Submitted by:	<b>Erin Olson-Douglas, Development Services Department Director</b>		

## AGENDA HEADING:

Review of Zoning Board of Adjustment decision conditionally granting a Use Variance to allow for an “Office: Business or Professional” use in an “F” Flood District on property at 3732 Easton Boulevard owned by Jaime Villafana.

## SYNOPSIS:

Staff recommends that Council decline to remand the decision conditionally granting a Use Variance to allow for an “Office: Business or Professional” use in an “F” Flood District on property at 3732 Easton Boulevard owned by Jaime Villafana.

## FISCAL IMPACT: NONE

## ADDITIONAL INFORMATION:

- On June 27, 2022, by Roll Call No. 22-1051, the City Council denied the request to rezone the property at 3732 Easton Boulevard from “F” and “MX1” District to “MX3” District, to allow the use of the building as an “Office: Business or Professional” use. The applicant had one (1) year from the date of this denial to apply to the Board of Adjustment for a Use Variance.
- On August 24, 2022, the Board of Adjustment conditionally granted a Use Variance to allow use of a vacant 2,804-square foot building for an “Office: Business or Professional” use within an “F” Flood District.
- The Board of Adjustment’s Decision & Order includes multiple conditions to ensure that the impacts of any “Office: Business or Professional” use are minimal.
- The subject property measures 21,388 square feet in area and is located along the north side of Easton Boulevard adjacent to the Four Mile Greenway. It is located within the Grays Woods Neighborhood. Most of the subject property, as well as properties to the west and north, are within the FEMA-designated 100-Year Floodplain and, therefore, is zoned “F” Flood District. This includes an existing 2,804-square foot vacant building that was originally constructed in 1997 for use as a gas station convenience store.
- The property has most recently experienced flooding from Four Mile Creek in 2008, 2010, 2015, and 2018.

- The property is currently owned by Jaime Villafana, 3732 Easton Boulevard Avenue, Des Moines, IA 50317.
- The business would be operated by Jr Revar Steel, LLC, represented by Jaime Villafana, 3732 Easton Boulevard, Des Moines, IA 50317.
- Pursuant to City Code Section 134-6.7.8.D, the City Council shall review the Board's decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council's action (September 12, 2022).

**PREVIOUS COUNCIL ACTION(S):**

Date: June 27, 2022

Roll Call Number: [22-1051](#)

Action: Moved by Westergaard and seconded by Gatto, to adopt the recommendation of the Plan and Zoning Commission and DENY the proposed amendment to the PlanDSM future land use designation and the proposed rezoning, and to make the following findings of fact regarding said proposals:

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed amendment to the PlanDSM: Creating Our Tomorrow Comprehensive Future Land Use Plan designation for 3732 Easton Boulevard, or the proposed rezoning of the Property from "F" Flood District and "MX1" Mixed-Use District to "MX3" Mixed-Use District are hereby received and filed, and the hearing is closed. 2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the Property locally known as 3732 Easton Boulevard from Parks and Open Space to Community Mixed Use is inconsistent with the policy and intent of the City as reflected in the comprehensive plan and land use map for the City generally. 3. The proposed rezoning of the Property, as legally described above, to "MX3" Mixed-Use District, is hereby found to not be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan as amended and is, accordingly, denied. 4. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment. Motion Carried 6-1. Absent: Sheumaker

**BOARD/COMMISSION ACTION(S):**

Board: Zoning Board of Adjustment

Date: August 24, 2022

Resolution Number: ZBOA-2022-000085

Action: Voted 5-0 to conditionally grant a Use Variance to allow use of a vacant 2,804-square foot building at 3732 Easton Boulevard for an "Office: Business or Professional" use within an "F" Flood District.

Board: Plan & Zoning Commission

Date: September 19, 2022

Resolution Number: ZONG-2021-000050

Action: Voted 12-0 to recommend: Part A) The requested rezoning to “MX3” District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space. Part B) Denial of the requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Parks and Open Space to Community Mixed Use. Part C) Denial of the requested rezoning from “F” Flood District and “MX1” Mixed Use District to “MX3” Mixed Use District as the proposed design solution provides sufficient floodproofing to the building within the subject property but does not raise part of the property currently in the floodplain above the Base Flood Elevation (floodplain).

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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