



Roll Call Number

Agenda Item Number

47

Date April 20, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM LIVING WATERS FELLOWSHIP (OWNER) TO REZONE PROPERTY LOCATED AT 3161 SOUTHEAST 22ND STREET

WHEREAS, on March 23, 2020, by Roll Call No. 20-0521, the City Council received a communication from the City Plan and Zoning Commission that advised that at a public hearing held on March 5, 2020, the City Plan and Zoning Commission voted 11-0 in support of a motion to recommend **APPROVAL** of a request by Living Waters Fellowship (owner), represented by Josh Daggett (officer), to rezone the property located at 3161 Southeast 22nd Street ("Property"), from "P2" Public, Civic and Institutional District to "RX1" Mixed Use District, to allow for the conversion of the premises to a day care use; and

WHEREAS, on March ~~23~~, 2020, by Roll Call No. 20-0521, it was duly resolved by the City Council that request to rezone the Property be set down for hearing on April 20, 2020 at 5:00 P.M., in the Council Chamber 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 comprehensive plan; and

WHEREAS, on March 23, 2020, by Roll Call No. 20-0585, it was duly resolved by the City Council that the time and place for the hearing on said proposed amendment to Zoning Ordinance be continued to April 20, 2020, at 5: 00 p.m., to be held in the Second Floor Board Room in the Richard A. Clark Municipal Services Center at 1551 East Martin Luther King Jr. Parkway; and

WHEREAS, in accordance with said notice and continuance, those interested in said proposed comprehensive plan amendment and rezoning and, 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 which is legally described as follows:

THE SOUTH 125 FEET OF THE WEST 16 RODS (264 FEET) OF THE SOUTH 40 RODS (660 FEET) OF THE SW ¼ OF SECTION 13, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., EXCEPT THE WEST 30 FEET THEREOF, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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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 from “P2” Public, Civic and Institutional District to “RX1” Mixed Use District, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to “RX1” Mixed Use District, 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 _____ TO ADOPT.

FORM APPROVED:



 Judy K. Parks-Kruse, Assistant City Attorney

(ZON2020-00024)

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

CERTIFICATE

I, P. Kay Cmelik, 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.

MOTION CARRIED APPROVED

 Mayor

 City Clerk



Date April 20, 2020
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March 17, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their March 5, 2020 meeting, the following action was taken regarding a request from Living Waters Fellowship (owner) represented by Joshua Daggett (officer) to rezone property located at 3161 Southeast 22nd Street from "P2" Public, Civic, and Institutional District to "RX1" Mixed Use District, to allow for conversion of the premise to a day care use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley				X
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato	X			
Steve Wallace				X
Greg Wattier				X
Emily Webb	X			

APPROVAL of Part A) the Commission find the proposed rezoning in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of "Community Mixed Use" within a Neighborhood Node and Part B) **APPROVAL** of the requested rezoning from "P2" Public, Civic, and Institutional District to "RX1" Mixed Use District.

(ZON2020-00024)

Written Responses

3 in Favor

0 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of "Community Mixed Use" within a Neighborhood Node.

Part B) Staff recommends approval of the requested rezoning from "P2" Public, Civic, and Institutional District to "RX1" Mixed Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning to the "RX1" District would allow the building to be converted from a religious assembly use to a day care use. The proposed use would be subject to the review and approval of a future site plan. The existing building would be considered to be a "Commercial Cottage" building type in accordance with requirements in Chapter 135 Article 2 of the City Code.

Should the requested rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow the specific proposed uses of the property.

2. Size of Site: 29,245 square feet or 0.671-acre.

3. Existing Zoning (site): "P2" Civic, and Institutional District.

4. Existing Land Use (site): The property contains an 1,872-square foot building that has been used for religious assembly and an off-street parking lot.

5. Adjacent Land Use and Zoning:

North - "RX1", Use is a one-household dwelling.

South - "NX2"; Uses are East Park Avenue and multiple-household dwellings.

East - "Riverwoods Terrace Legacy PUD"; Use is an assisted living facility.

West - "MX1"; Uses are Southeast 22nd Street and a gas station convenience store (Git-n-Go).

6. General Neighborhood/Area Land Uses: The subject property is located within a small commercial node at the intersection of East Park Avenue and Southeast 22nd Street.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Riverwoods Neighborhood and within 250 feet of the Pioneer Park Neighborhood. All

neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on February 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 14, 2020 (20 days prior to the public hearing) and February 24, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. A Final Agenda was mailed to recognized neighborhoods on February 28, 2020.

The Riverwoods Neighborhood mailings were sent to Denise Benda, 2230 East Caulder Court, Des Moines, IA 50320, and the Pioneer Park Neighborhood mailings were sent to Scott Jimmerson, 1907 East Lacona Avenue, Des Moines, IA 50320.

The applicant held their required neighborhood meeting on February 6, 2020. The applicant has provided the required written summary of the neighborhood meeting.

8. **Relevant Zoning History:** The City' new Zoning Ordinance took effect on December 15, 2019, at which time the property became zoned "P2" Public, Civic, and Institutional District.
9. **PlanDSM Land Use Plan Designation:** The property is designated as "Community Mixed Use" within a neighborhood node centered at the intersection of East Park Avenue and Southeast 22nd Street.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Land Use Plan:** The Zoning Ordinance describes the requested "RX1" District as follows: *RX1 is intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity appropriate for corridor's adjacent to low-scale neighborhoods.*

The proposed rezoning to "RX1" District is compatible with the future land use designation of "Community Mixed Use" within a Neighborhood Node. PlanDSM Creating Our Tomorrow Plan describes "Community Mixed Use" as: *Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customer.*

- 2. Streets and Access:** A traffic study was not required by the City's Traffic Engineering Division for the requested rezoning.

For purposes of future redevelopment of the site, Southeast 22nd Street is considered a Primary Street Frontage.

- 3. Parking:** If the site is converted to a day care, the use would require 1 parking space for every 2 staff members, plus 3 drop-off/pick-up spaces.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the audience or the Commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

John "Jack" Hilmes made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of "Community Mixed Use" within a Neighborhood Node and Part B) **APPROVAL** of the requested rezoning from "P2" Public, Civic, and Institutional District to "RX1" Mixed Use District.

Motion passed: 11-0

Respectfully submitted,



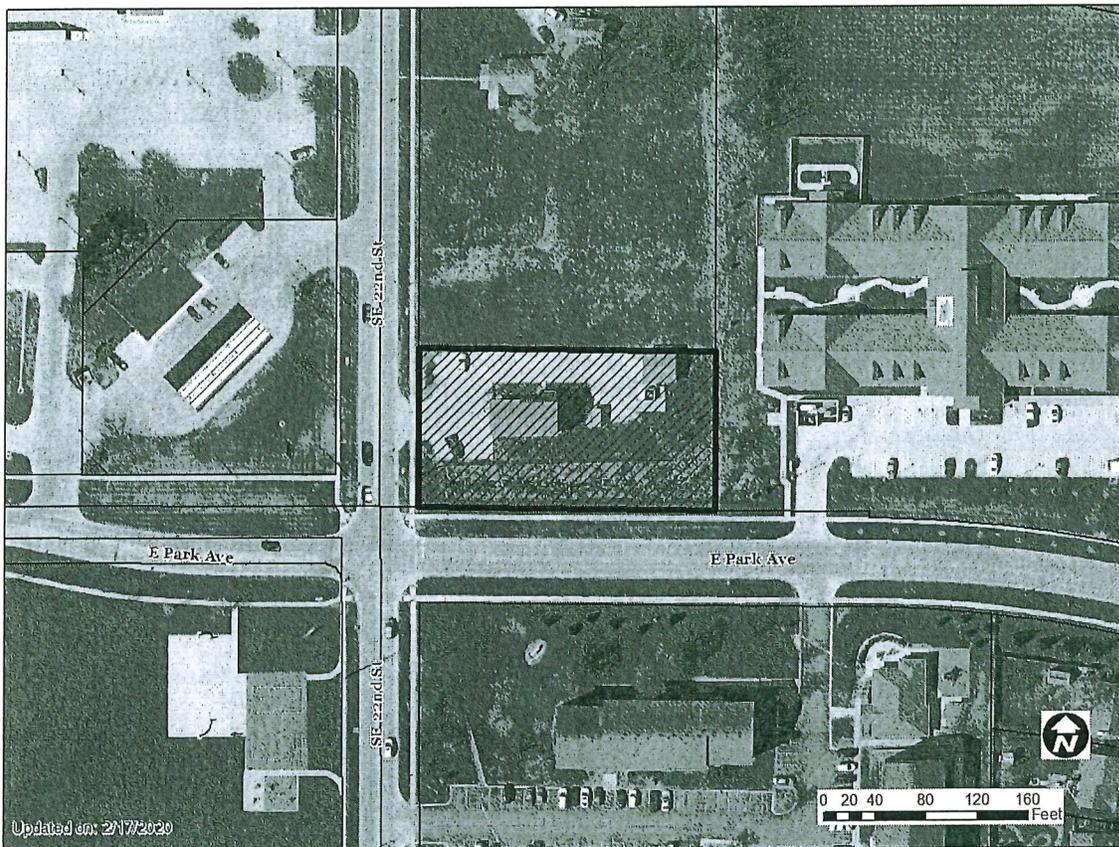
Michael Ludwig, AICP
Planning Administrator

MGL:tjh

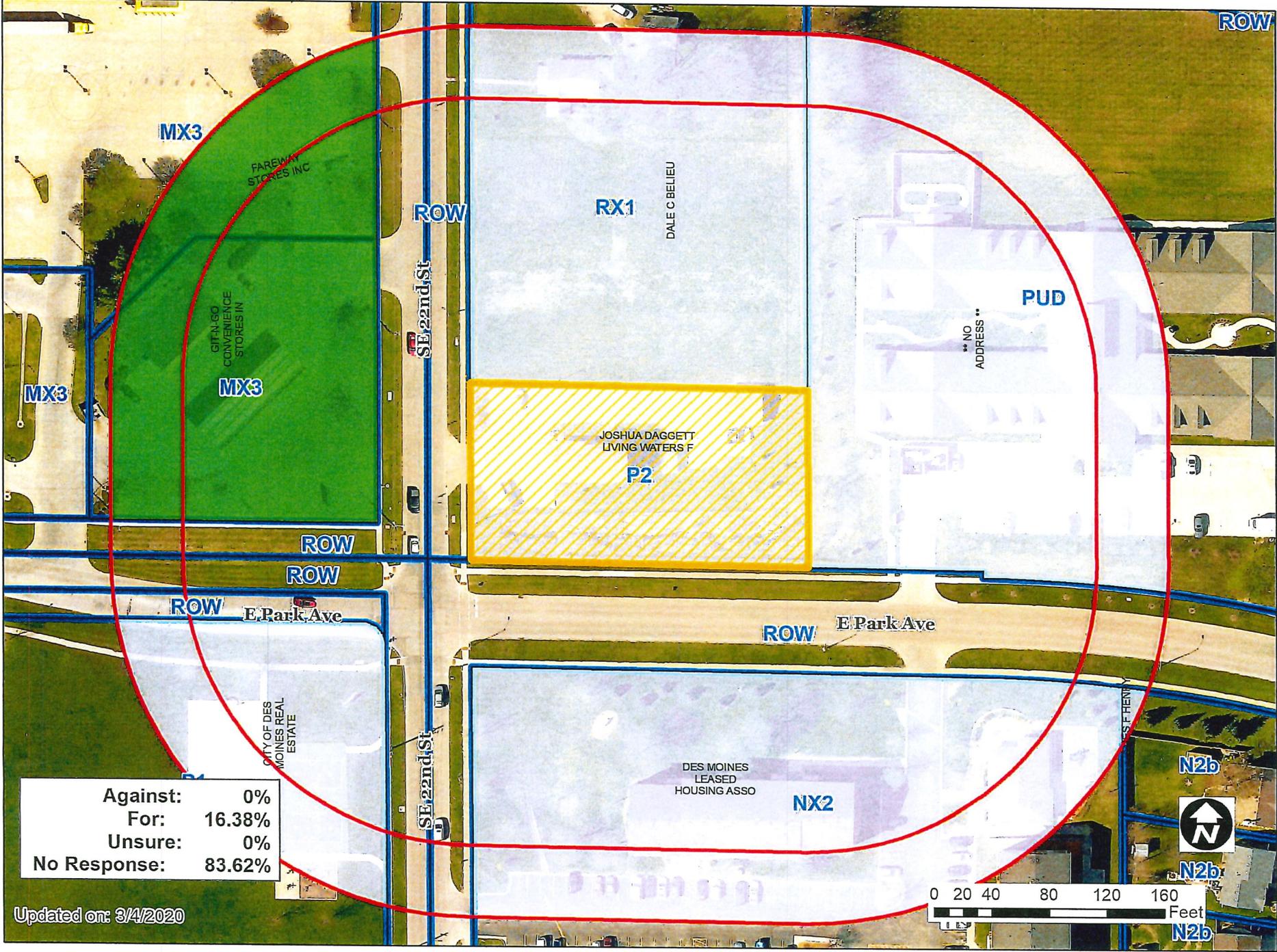
Living Waters Fellowship (owner) represented by Joshua Daggett (officer) for property located at 3161 Southeast 22nd Street.		File #		
		ZON2020-00024		
Description of Action	Rezone property from "P2" Public, Civic, and Institutional District to "RX1" Mixed Use District, to allow for conversion of the premise to a day care use.			
PlanDSM Future Land Use	Current: Community Mixed Use within a Neighborhood Node. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"P2" Public, Civic and Institutional District.			
Proposed Zoning District	"RX1" Mixed Use District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	3	0		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Living Waters Fellowship, 3161 Southeast 22nd Street

ZON2020-00024

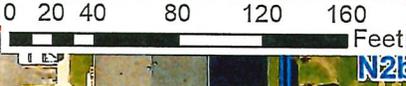


1 inch = 88 feet



Against:	0%
For:	16.38%
Unsure:	0%
No Response:	83.62%

Updated on: 3/4/2020



1 inch = 88 feet

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Item: ZON2020-00024 Date: 3/5/2020

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I (am) (am not) in favor of the request:
(Circle One)

Print Name: DENISE BENDA

Signature: *Denise Benda*

Address: 2230 E Canales Ct. 50380

Reason for opposing or approving this request may be listed below:

*clo - River Woods Neighborhood Association (President/Secretary)
A welcomed addition to the neighborhood.*

Item: ZON2020-00024 Date: 2/27/20

I (am) (am not) in favor of the request:
(Circle One)

Print Name: *Git-N-Go Stores
Dennis Flava*

Signature: *Dennis Flava, Pres.*

Address: 2716 Indiana Ave. D.M.
50315

RECEIVED
COMMUNITY DEVELOPMENT
MAR 02 2020

Reason for opposing or approving this request may be listed below:

Item: ZON2020-00024 Date: 2-28-20

I (am) (am not) in favor of the request:
(Circle One)

Print Name: Fareway Stores, Inc. c/o Garrett Pickens

RECEIVED
COMMUNITY DEVELOPMENT

Signature: Garrett Pickens

MAR 02 2020

Address: 3000 SE 22nd, DSM, IA 50320

Reason for opposing or approving this request may be listed below:

Josh + his team are working to do great things!
