



Roll Call Number

Agenda Item Number

47

Date October 4, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM HY-VEE, INC. TO REZONE PROPERTY LOCATED AT 2540 EAST EUCLID AVENUE

WHEREAS, on September 13, 2021, by Roll Call No. 21-1406, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on August 19, 2021, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Hy-Vee, Inc. (Owner), represented by John Brehm (officer) to rezone real property locally known as 2540 East Euclid Avenue (“Property”) from ‘MX3’ Mixed Use District to ‘CX’ Mixed Use District to bring the existing Large-Format Retail Sales use into a zoning district that is more in line with the intent of the Zoning Ordinance for the use including but not limited to accessory outdoor sales with kiosk and canopy for vehicular pick up of online purchases; and

WHEREAS, on September 13, 2021, by Roll Call No. 21-1406, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on October 4, 2021 at 5:00 P.M., in the Council Chambers; 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 rezoning; and

WHEREAS, in accordance with said notice, those interested in said 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 locally known as 914 East Euclid Avenue, legally described as:

A PARCEL OF LAND IN THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30. TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF DOUGLAS HILL MANOR, AN OFFICIAL PLAT, THENCE S 89°58'50" E, 460.42 FEET ALONG THE SOUTH LINE OF SAID PLAT TO A POINT; THENCE S00°00'00" E, 111.31 FEET TO A POINT; THENCE S 90°00'00" E, 247.96 FEET TO A POINT; THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 172.50 FEET AND A CHORD BEARING OF N 18°03'15" W, AN ARC LENGTH OF 115.91 FEET TO A POINT OF TANGENCY; THENCE N 00°54'41" W, 1.119 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF EAST 26TH STREET; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT

.....
Date October 4, 2021

HAVING A RADIUS OF 152.31 FEET AND A CHORD BEARING OF S 23°24'41" E, AN ARC LENGTH OF 119.63 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT OF TANGENCY; THENCE S 45°54'41" E, 27.03 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 102.31 FEET, AN ARC LENGTH OF 80.36 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT OF TANGENCY; THENCE S 00°54'41" E, 238.72 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST EUCLID AVENUE; THENCE N 90°00'00" W, 668.33 FEET ALONG SAID NORTH RIGHT OF WAY LINE TO A POINT; THENCE N 00°42'20" W, 199.93 FEET TO A POINT; THENCE S 89°57'30" W, 99.96 FEET TO A POINT ON THE EAST LINE OF SAID LOT 9, DOUGLAS ACRES PLAT 7, AN OFFICIAL PLAT; THENCE N 00°40'50" W, 238.58 FEET ALONG THE EAST LINE OF LOT 9 AND LOT 21 OF SAID PLAT TO THE POINT OF BEGINNING AND CONTAINING 6.463 ACRES MORE OR LESS; AND

BEGINNING AT THE SOUTHEAST CORNER OF LOT 11, DOUGLAS HILL MANOR, AN OFFICIAL PLAT; THENCE S00°54'41"E, 3.10 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 172.50 FEET, AN ARC LENGTH OF 115.91 FEET TO A POINT; THENCE S90°00'00"W, 247.96 FEET TO A POINT; THENCE N00°00'00"W, 111.31 FEET TO A POINT ON THE SOUTH LINE OF SAID PLAT; THENCE S89°58'50"E, 212.66 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.570 ACRES MORE OR LESS.

from 'MX3' Mixed District to 'CX' Mixed Use District, for the purpose set forth above.

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 to 'CX' Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to 'CX' 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.



Roll Call Number

Agenda Item Number

47

Date October 4, 2021

MOVED BY _____ TO APPROVE.

APPROVED AS TO FORM:

Judy K. Parks-Kruse
Judy K. Parks-Kruse
Assistant City Attorney

(ZONG-2021-000005)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			
_____ Mayor				

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.

_____ City Clerk



Date 10-4-21

Agenda Item 47

Roll Call # _____

August 25, 2021

Communication from the City Plan and Zoning Commission advising that at their August 19, 2021 meeting, the following action was taken regarding a request from Hy-Vee, Inc. (owner), represented by John Brehm (officer) to rezone property located at 2540 East Euclid Avenue from "MX3" Mixed Use District to "CX" Mixed Use District to bring the existing Large-Format Retail Sales use into a zoning district that is more within the in line with the intent of the Zoning Ordinance for the use including but not limited to accessory outdoor sales with kiosk and canopy for vehicular pick up on online purchases.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar				X
Lisa Howard	X			
Carolyn Jenison				X
William Page				X
Rocky Sposato				X
Steve Wallace				X
Greg Wattier				X
Emily Webb	X			

APPROVAL of Part A) The requested rezoning be found in conformance with the existing PlanDSM future land use designation of Community Mixed Use within a Community Node.

Part B) Approval of the requested rezoning from "MX3" Mixed Use District to "CX" Mixed Use District. (ZONG-2021-000005)

Written Responses

4 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with the existing PlanDSM future land use designation of Community Mixed Use within a Community Node.

Part B) Staff recommends approval of the requested rezoning from "MX3" Mixed Use District to "CX" Mixed Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to expand use of the existing 3,100 square feet drive-through at the East Euclid Avenue Hy-Vee grocery store for the Aisles Online grocery pick-up service. The rezoning would facilitate continued and expanded use of the existing drive-through and canopy, including construction of additional pick-up lanes and a permanent 640 square-foot kiosk adjacent to the existing canopy.
2. **Size of Site:** 306,357 square feet (7.033 acres).
3. **Existing Zoning (site):** "MX3" Mixed Use District.
4. **Existing Land Use (site):** The site contains a 72,770 square-foot, one-story commercial center building with an approximately 3,100- square foot drive-through canopy, an 8,220-square-foot one-story building utilized for banquet and rental purposes, and a surface parking lot.
5. **Adjacent Land Use and Zoning:**

 North – "N3a"; Uses are one-household residential.
 South – "MX3"; Uses are retail, commercial, medical, and religious.
 East – "P2"; Use is religious assembly.
 West – "MX3" and "N1b"; Uses are commercial and retail.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the intersection of East Euclid Avenue and East 26th Street. The area contains a mix of commercial and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Douglas Acres Neighborhood and within 250 feet of the Fairmont Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 30, 2021 and by mailing of the Final Agenda on August 13, 2021. Additionally, separate notifications of the hearing for this specific item were

mailed on July 30, 2021 (20 days prior to the public hearing) and August 9, 2021 (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 on the date of the mailing. The Douglas Acres Neighborhood mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317. The Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

The applicant is required to conduct neighborhood outreach. They will be available to provide a summary of that outreach during the public hearing.

- 8. **Relevant Zoning History:** On February 28, 2018, by Docket No. ZON2018-00009, the Zoning Board of Adjustment conditionally approved an Exception of 106 off-street parking spaces less than the minimum 379 parking spaces required for 64,659 square feet of retail space (1 space per 200 square feet) and 8,250 square feet of banquet hall space (1 space per 150 square feet).
- 9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Community Node.
- 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 Creating Our Tomorrow:** The subject property is designated "Community Mixed Use" within a Community Node. Plan DSM describes this designation as follows:

Community Mixed Use

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 customers.

Community Node

Mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

Based on these designations, the proposed "CX" Mixed Use District zoning would be found in conformance with the Comprehensive Plan. Staff believes the proposed rezoning is appropriate given the location of the subject property along a high-capacity transportation corridor.

2. **Planning and Design Ordinance:** Any construction must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review before the existing use can be expanded.
3. **Drive-Through Facility:** Section 135-2.22.3(D)(1) of the Planning and Design Ordinance requires drive-through facilities to be located on the rear facade of the building or on the interior side of the building in the "CX" District. The proposed development consists of the existing drive-through and canopy and construction of additional pick-up lanes and a permanent 640 square-foot kiosk adjacent to the existing canopy on the east (non-primary street-facing) side of the building. Relocating the drive-through to the north (rear) façade is not practical, as the north façade of the building consists of a 33-foot rear setback adjoining a low-density residential area.

The location of the proposed drive-through canopy addition and kiosk is in the existing parking lot on the east facade of the building, would expand an existing drive-through facility, and would not substantially increase traffic within the parking lot. Landscaping is proposed between the parking lot, the proposed kiosk and the expanded drive-through lanes to provide a buffer. The requested rezoning would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety, and general welfare. Staff believes that the requested rezoning would be in conformance with the land use designation of Community Mixed Use within a Community Node.

SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Jann Freed made a motion for:

Part A) The requested rezoning be found in conformance with the existing PlanDSM future land use designation of Community Mixed Use within a Community Node.

Part B) Approval of the requested rezoning from "MX3" Mixed Use District to "CX" Mixed Use District.

Motion passed: 9-0

Respectfully submitted,

Bert Drost

Bert Drost, AICP
Deputy Planning & Urban Design Administrator

BAD:tjh

Item: ZONG-2021-000005

Date: 8/11/21 47

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Handwritten Signature]

Name: 2459 E. EULM LLC

Address: _____

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT
AUG 18 2021

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

Item: ZONG 2021 000005

Date: 8-12-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Handwritten Signature]

Name: Warren Grubbs

Address: 2454 E Douglas Ave

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT
AUG 18 2021

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

Item: ZONG-2021-000005

Date: 8-12-2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Name: Buck Crampton

Address: 2400 E. Douglas Ave 50317

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

AUG 18 2021

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

Item: ZONG-2021-000005

Date: 8-12-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Name: LESTER R. SOUTHERN

Address: 2483 E. DOUGLAS AVE.

Staff Use Only

COMMUNITY DEVELOPMENT

AUG 18 2021

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

HY-VEE HAS BEEN AN ASSET TO THE AREA. "GOOD
NEIGHBORS". WE'VE LIVED HERE SINCE 1962