

.....  
**Date** October 18, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM MIDAMERICAN ENERGY TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 2399 EAST COUNTY LINE ROAD (ALONG THE SOUTH SIDE OF EAST COUNTY LINE ROAD IN WARREN COUNTY)**

**WHEREAS**, on October 4 2021, by Roll Call No. 21-1476, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 16, 2021, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from MidAmerican Energy Company (successor to Iowa Power and Light Company) (Owner), represented by Ryan Stansberry (Officer) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property generally located at 2399 East County Line Road (“Property”) from Business Park to Industrial to allow rezoning to ‘I2’ Industrial to allow modification of the existing electrical utility service center and to allow for request of a Conditional Use from the Zoning Board of Adjustment for above-ground storage of flammable liquids, which is interpreted as an Intensive Fabrication and Production Use, and for a Junk and Salvage Yard use; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on September 16, 2021, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from MidAmerican Energy Company (successor to Iowa Power and Light Company) (Owner), represented by Ryan Stansberry (Officer) to to rezone the Property from ‘EX-V’ Mixed Use District to ‘I2’ Industrial District for the above-stated purpose; and

**WHEREAS**, on October 4, 2021, by Roll Call No. 21-1476, it was duly resolved by the City Council that the request to amend PlanDSM and to rezone the Property be set down for hearing on October 18, 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 amendment to PlanDSM and proposed rezoning; and

**WHEREAS**, in accordance with said notice, those interested in said proposed amendment to PlanDSM and 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 2399 East County Line Road, legally described as:

AN IRREGULAR SHAPED PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 77 NORTH, RANGE 24 WEST OF THE 5TH P.M., WARREN COUNTY, IOWA, LYING NORTHEAST OF THE HIGHWAY, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE



Date October 18, 2021

NORTHWEST QUARTER OF SAID SECTION 1; THENCE S00°06'33"E ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 25.05 FEET TO THE SOUTH RIGHT OF WAY LINE OF COUNTY LINE ROAD AS IT IS PRESENTLY ESTABLISHED AND TO THE POINT OF BEGINNING; THENCE CONTINUING S00°06'33"E ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 1236.79 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF US HIGHWAY 69 AS IT IS PRESENTLY ESTABLISHED; THENCE N33°38'28"W ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 601.92 FEET; THENCE N44°29'14"W ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 302.42 FEET; THENCE N63°50'19"W ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 48.51 FEET; THENCE N41°55'55"W ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 111.92 FEET; THENCE N48°21'43"W ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 643.70 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID COUNTY LINE ROAD; THENCE S89°20'50"E ALONG THE SOUTH RIGHT OF WAY LINE OF SAID COUNTY LINE ROAD, A DISTANCE OF 264.10 FEET; THENCE S67°36'44"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 164.97 FEET; THENCE S89°29'43"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 298.89 FEET; THENCE N59°21'37"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 116.82 FEET; THENCE S89°23'27"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 326.44 FEET TO THE POINT OF BEGINNING.

SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD.

CONTAINING 13.65 ACRES

from 'EX-V' Mixed Use to 'I2' Industrial District.

**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 amendment to PlanDSM and proposed rezoning of the Property to 'I2' Industrial District are hereby overruled, and the hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Business Park to Industrial is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to 'I2' Industrial District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved,



**Roll Call Number**

**Agenda Item Number**

49

Date October 18, 2021

subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY \_\_\_\_\_ TO ADOPT

APPROVED AS TO FORM:

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

(ZONG2021-000069)  
(21-2021-4.18)

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

September 28, 2021

Communication from the City Plan and Zoning Commission advising that at their September 16, 2021 meeting, the following action was taken regarding a request from MidAmerican Energy Company (successor to Iowa Power & Light Company) (owner), represented by Ryan Stansbury (officer) to rezone property located at 2399 East County Line Road from "EX-V" Mixed Use District to "I2" Industrial District, to allow modification of the existing electrical utility service center and to allow for request of a Conditional Use from the Zoning Board of Adjustment for above-ground storage of flammable liquids, which is interpreted as an Intensive Fabrication and Production use, and for a Junk and Salvage Yard use.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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 not in conformance with the existing PlanDSM future land use designation of Business Park.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation for the subject property from Business Park to Industrial.

Part C) Approval of the proposed rezoning of the subject property from "EX" Mixed Use District to "I2" Industrial District. (ZON2021-00069)

Written Responses

0 in Favor  
1 in opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Business Park.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation for the subject property from Business Park to Industrial.

Part C) Staff recommends approval of the proposed rezoning of the subject property from "EX" Mixed Use District to "I2" Industrial District.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed rezoning would allow modification of the existing electrical utility service center and provide the opportunity for the applicant to request a Conditional Use approval from the Zoning Board of Adjustment for above-ground storage of flammable liquids.
2. **Size of Site:** Approximately 15.45 acres.
3. **Existing Zoning (site):** "EX-V" Mixed Use District. Vehicle sales and rental uses are prohibited in zoning districts with the "V" extension.
4. **Existing Land Use (site):** MidAmerican Energy service center.
5. **Adjacent Land Use and Zoning:**
  - North** – "N2b"; Use is undeveloped land.
  - South** – "EX-V"; Use is undeveloped land.
  - East** – "EX"; Use is undeveloped land.
  - West** – "EX-V"; Uses are one household dwellings and undeveloped land.
6. **General Neighborhood/Area Land Uses:** The subject property is located near the intersection of Southridge Boulevard/U.S. Highway 69 and East County Line Road/Indianola Avenue. The area contains a mix of commercial, industrial, agricultural and residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on August 27, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on August 27, 2021 (20 days prior to the hearing) and September 3, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. Additionally, a Final Agenda for the hearing will be mailed to all recognized neighborhoods on September 10, 2021

The applicant can provide a summary of the neighborhood meeting at the public hearing.

- 8. Relevant Zoning History:** None.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Business Park.

- 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 as "Business Park" on the Future Land Use Map. PlanDSM describes this designation as follows:

### **BUSINESS PARK**

*Accommodates light industrial, office and employment use along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences, and would have little or no adverse effect on surrounding properties.*

The proposed "I2" District zoning requires the "Industrial" designation on the Future Land Use Map for the rezoning to be found in conformance with PlanDSM.

The Industrial designation is described as follows:

### **INDUSTRIAL**

*Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.*

The Zoning Ordinance states that "I2" is intended for general and higher intensity industrial uses as well as warehousing and transportation terminal." Building types

allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant has proposed "I2" Industrial District in order to have flexibility to provide above ground storage tanks for flammable liquids, which is defined under the Zoning Ordinance within the Intensive Fabrication and Production description.

The applicant is also proposing the possibility for outside storage of salvage material or inoperable vehicles and machinery. This would fall within the use description of Junk/Salvage Yard. Both these possible uses would require the "I2" Industrial District zoning, as well as a further approval of a Conditional Use by the Zoning Board of Adjustment.

2. **Large-Scale Development Plan:** The applicant provided the required Large-Scale Development Plan (LSDP) with the rezoning when it exceeds 5 acres in area. The submitted LSDP depicts the concept for the property development. It shows proposed buildings, parking area, fuel islands, outside storage area, open space and storm water detention. There two proposed vehicular access drives on the south frontage of East County Line Road. A drainage path is shown along the east property line but does not show a stormwater basin.
3. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations, for any proposed additions or modifications.
4. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

## **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:**

Carolyn Jension made a motion for approval of:

Part A) The requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Business Park.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation for the subject property from Business Park to Industrial.

Part C) Approval of the proposed rezoning of the subject property from "EX" Mixed Use District to "I2" Industrial District.

Motion passed: 13-0

Respectfully submitted,

*Bert Drost*

Bert Drost, AICP  
Deputy Planning & Urban Design Administrator

BAD:tjh



Updated on: 8/19/2021

1 inch = 270 feet



Updated on: 8/19/2021

1 inch = 270 feet



Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 6/16/2021

City of Des Moines

1 inch = 271 feet



Updated on: 9/15/2021

1 inch = 271 feet

Item: ZON2021-00069

Date: 9-8-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 13 2021

Signature: *Beverly McKinney*

Name: *Beverly McKinney*

Address: *11680 Luers Pl*

*Indianola IA*

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

*A dump site will decrease property values*  
*AND MAY EFFECT MY WELL.*

*ALSO CAN BE DANGEROUS IF CHEMICALS*  
*ARE STORED.*



