



Date January 12, 2026

RESOLUTION SETTING PUBLIC HEARING REGARDING REQUEST FROM EVERGREEN, LLC (OWNER), REPRESENTED BY SUKHVIR KAUR (OFFICER), FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4540 LOWER BEAVER ROAD, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM LOW MEDIUM DENSITY RESIDENTIAL TO NEIGHBORHOOD MIXED USE, AND TO REZONE THE PROPERTY FROM “NX2” NEIGHBORHOOD MIX DISTRICT TO LIMITED “RX1” MIXED-USE DISTRICT TO ALLOW REUSE OF AN EXISTING NON-CONFORMING AUTO REPAIR BUILDING FOR AN ICE CREAM SHOP AND DRIVE-THROUGH

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), for the proposed rezoning from “NX2” Neighborhood Mix District to Limited “RX1” Mixed-Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan designation of Neighborhood Mixed-Use; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), to amend the PlanDSM: Creating Our Tomorrow Land Use Plan designation for the subject property from Low Medium Density Residential to Neighborhood Mixed-Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), to rezone the Property from “NX2” Neighborhood Mix District to Limited “RX1” Mixed-Use District, to allow the reuse of an existing non-conforming auto repair building for an ice cream shop and drive-through, subject to the following condition:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

WHEREAS, the Property is legally described as follows:

Part of the Southwest 1/4 of the Northeast 1/4 of Section 20, Township 79, Range 14, West of the 5th P.M., described as follows: Beginning at the Northwest corner of the Southwest 1/4 of the Northeast 1/4 of said Section 20, thence East 654.3 feet thence South 1°46' East, 454.1 feet parallel and 33 feet distant from the center of Lower Beaver Road to the point of beginning; thence South 90°00' West 32.0 feet to P.C. of 14°54' curve to left; thence along said 14°54' curve to left a distance of



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88.4 feet; thence South 1046' East, 140 feet parallel to Lower Beaver Road; thence South 90°00' East, 120 feet to a point 33 feet from center line of Lower Beaver Road, thence North 1°46' West, 150 feet to point of beginning; all now included in and forming a part of the City of Des Moines, Polk County, Iowa

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposal, shall be held at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on January 26, 2026, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

Moved by _____ to _____

Second by _____.

FORM APPROVED:

/s/ Emily A. Duffy

Emily A. Duffy
Assistant City Attorney

(ZONG-2025-000035)

(COMP-2025-000027)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| BOESEN | | | | |
| SIMONSON | | | | |
| VOSS | | | | |
| BARRON | | | | |
| WESTERGAARD | | | | |
| MANDELBAUM | | | | |
| GATTO | | | | |
| TOTAL | | | | |

CERTIFICATE

I, LAURA BAUMGARTNER, 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



January 5, 2026

Communication from the City Plan and Zoning Commission advising that at their December 18, 2025 meeting, the following action was taken on request from Evergreen, LLC (owner), represented by Sukhvir Kaur (officer), for the following regarding property located at 4540 Lower Beaver Road:

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification of the property from Low Medium Density Residential to Neighborhood Mixed Use.
- C) Rezone property from "NX2" Neighborhood Mix District to "RX1" Mixed-Use District, to allow reuse of an existing non-conforming auto repair building for an ice cream shop and drive-through.

COMMISSION RECOMMENDATION: 10-0

After public hearing, the members voted as follows:

| Commission Action: | Yes | Nays | Pass | Abstain | Absent |
|--------------------|-----|------|------|---------|--------|
| Francis Boggus | X | | | | |
| Leah Rudolphi | X | | | | |
| Chris Draper | X | | | | |
| Laura Kessel | X | | | | |
| Todd Garner | | | | | X |
| Johnny Alcivar | X | | | | |
| Carolyn Jenison | X | | | | |
| William Page | X | | | | |
| Andrew Lorentzen | | | | | X |
| Emily Webb | | | | | X |
| Katie Gillette | X | | | | |
| Rick Trower | X | | | | |
| Jane Rongerude | | | | | X |
| John Erpelding | X | | | | |

Approval of the following:

Part A) The requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Amendment to revise the future land use classification from Low-Medium Density Residential to Neighborhood Mixed Use.

Part C) Rezone from “NX2” Neighborhood Mix District to Limited “RX1” Mixed Use District, subject to the following condition:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the requested amendment to revise the future land use classification from Low-Medium Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of the requested rezoning from “NX2” Neighborhood Mix District to Limited “RX1” Mixed Use District, subject to the following condition:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to convert an existing 1,324-square foot auto repair shop building to an ice cream shop with a drive-through. The building is proposed to be remodeled with both interior and outdoor seating areas. The current overhead doors would be replaced. This project falls under the Commercial category and is most consistent with the Eating and Drinking Places - Restaurant use type.

Any future construction or redevelopment on the subject properties must comply with all applicable site plan and design regulations contained in the Planning and Design Ordinance (Chapter 135 of City Code).

2. **Size of Site:** 0.403 acres (17,560 square feet).
3. **Existing Zoning (site):** "NX2" Neighborhood Mix District.
4. **Existing Land Use (site):** The subject property along Lower Beaver Road and includes an existing commercial building with two bays for automotive repair, a paved parking lot, and two (2) driveways.
5. **Adjacent Land Use and Zoning:**

North – "NX2"; Uses are multiple-household residential.

South – 'NX2"; Uses are retail convenience store and surface parking lot.

East – "N3a"; Uses are one-household residential.

West – "NX2"; Uses are multiple-household residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located along Lower Beaver Road. The surrounding area is comprised of mostly one-household uses with some multiple-household and small scale commercial uses in the immediate vicinity of the site. The subject property is to the north of Douglas Avenue corridor which includes commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Lower Beaver Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing the Preliminary Agenda on November 26, 2025, and of the Final Agenda on December 12, 2025.

Additionally, an official public notice of the hearing for this specific item was mailed on November 26, 2025 (20 days before the hearing), and on December 8, 2025 (10 days before the hearing), to any Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site or adjacent to the site. All Neighborhood Association mailings are sent to the primary contact designated by the recognized Neighborhood Association on file with the City of Des Moines' Neighborhood Services Department.

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

8. **Relevant Zoning History:** The subject property was previously used for an auto repair use in accordance with a Use Variance initially granted by the Zoning Board of Adjustment on November 28, 2007, and amended on December 4, 2012. That business has since vacated the premise, so the Use Variance has expired.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low-Medium Density Residential.

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 applicant is requesting that the future land use designation for the property be amended from “Low-Medium Density Residential” to “Neighborhood Mixed Use”. PlanDSM describes these designations as follows:

Low-Medium Density Residential: Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

Neighborhood Mixed Use: Small scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development.

The subject parcel is currently zoned “NX2” District. The Zoning Ordinance describes “NX2” District as, “intended for a mix of single household houses with appropriately scaled and detailed multiple-household building types in the same neighborhood.”

The applicant is proposing to rezone the parcel to the “RX1” District. The Zoning Ordinance describes this district as, “intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.”

Staff believes that the proposed Neighborhood Mixed Use designation is appropriate for this site since it includes a pre-existing commercial use on the Lower Beaver corridor. This area consists of a mix of small scale multi-family and neighborhood commercial uses. The proposed use would not have a detrimental impact on the adjoining properties so long as it is developed according to all applicable site plan and design regulations of the City’s Planning and Design Ordinance and cleaned and maintained as per Staff’s condition of approval.

2. Driveway Access: The subject property has two (2) existing driveways off Lower Beaver Road spaced about 63 feet apart. The submitted site concept incorporates the driveways for the proposed drive-through traffic circulation entering and exiting the site. Staff would

like to note that during the site plan stage, the elimination of a driveway may be required to meet the City's access standards.

3. **Planning and Design Ordinance Requirements:** Any development must comply with all applicable site plan and design regulations of the City's Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review before the property can be occupied by the proposed use.

The submitted site concept shows parking along the front of the building with a few picnic tables for outdoor seating. Additionally, the concept indicates a one-lane drive-through along windows in the rear of the building. A drive-through in an RX1 District requires a Type 2 Design Alternative and must comply with the siting/design regulations pursuant to Sections 134-3.9.3 and 135-2.22 of the Code.

Staff would like to note that the subject property is currently overgrown with weeds and vegetation. Any such overgrowth should be removed and maintained prior to allowing a commercial use on the site.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the requested amendment to revise the future land use classification from Low-Medium Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of the requested rezoning from "NX2" Neighborhood Mix District to "RX1" Mixed Use District, subject to the following condition:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

SUMMARY OF DISCUSSION

Jillian Sommer presented the staff report and recommendations.

Chris Draper asked if this building was The Family Pantry location.

Jillian Sommer stated it is not. The Family Pantry building is located to the south of this property.

CHAIRPERSON OPEN PUBLIC HEARING

Suki Kaur, 4540 Lower Beaver Road, presented her plan to convert the auto repair shop building to an ice cream shop use that would provide a nice relaxing setting for families to enjoy desserts.

Izak Yaw, 4216 38th Street, spoke in favor of this project as the president of the Lower Beaver Neighborhood Association. The neighborhood association discussed the project at a recent meeting, and they look forward to having this business in their neighborhood.

Steve Laudick, 3506 Valdez Drive, spoke in favor of the proposed ice cream shop being located in his neighborhood. He noted that the area contains many vacant buildings and expressed appreciation that the project would bring new activity and vitality to the neighborhood.

Tim Helkama, 1405 SE 1st Street, architect for the project, discussed the proposed site design. He stated the applicant's intent to retain two driveways during the site plan review process, while noting they are willing to work with City staff on that issue. He expressed a desire to maintain an outdoor seating area and noted that overgrown vegetation on the property would be cleaned up as part of the project.

Carol Maher, Downtown Des Moines, spoke in opposition to the project with concerns of allowing the site to retain two driveways that cross the bike lane within Lower Beaver Road. This area was not zoned for this type of auto-oriented businesses to increase the traffic so substantially. She requests at a minimum if allowed, that they close off one of the curb cuts and keep safety of pedestrians a priority.

CHAIRPERSON CLOSED PUBLIC HEARING

Chris Draper expressed excitement about the project and stated that this type of business is needed in neighborhood areas. He acknowledged concerns related to traffic and encouraged that these issues be carefully considered during the site plan review phase of the project.

COMMISSION ACTION

Francis Boggus made motion for approval of the following:

Part A) The requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Amendment to revise the future land use classification from Low-Medium Density Residential to Neighborhood Mixed Use.

Part C) Rezone from "NX2" Neighborhood Mix District to Limited "RX1" Mixed Use District, subject to the following condition:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

THE VOTE: 10-0

Respectfully submitted,

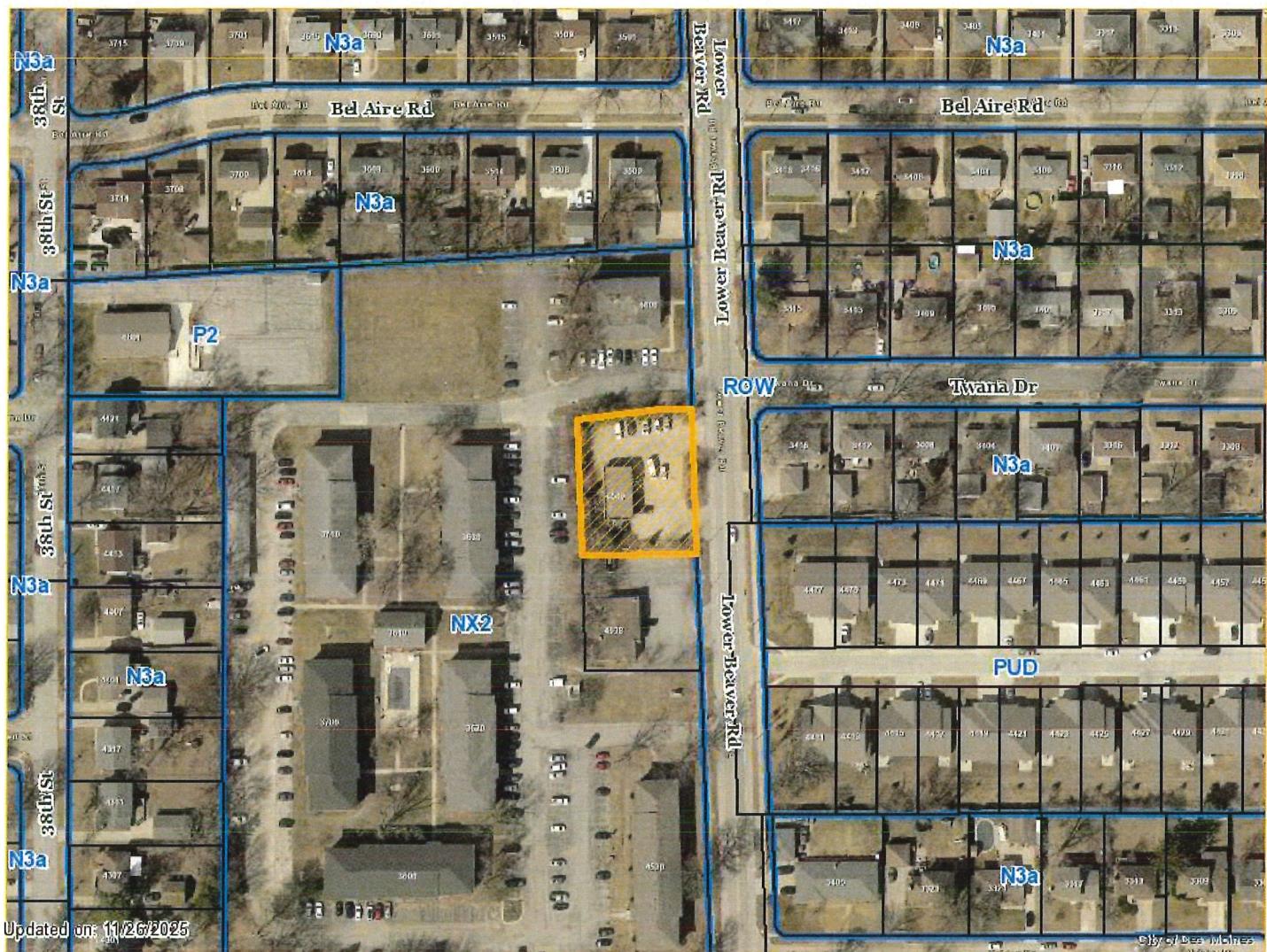


Bert Drost, AICP
Planning & Urban Design Deputy Administrator

BAD:mrw

Evergreen LLC, 4540 Lower Beaver Road

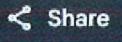
ZONG-2025-000035



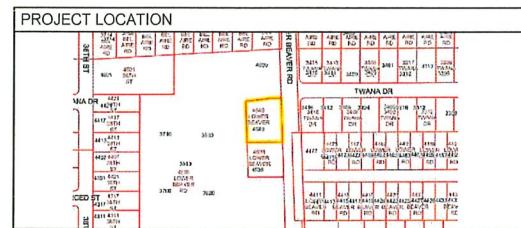


Share



 Share

ICE CREAM SHOPPE
REZONING EXHIBIT
4540 LOWER BEAVER ROAD
DES MOINES, IOWA 50310

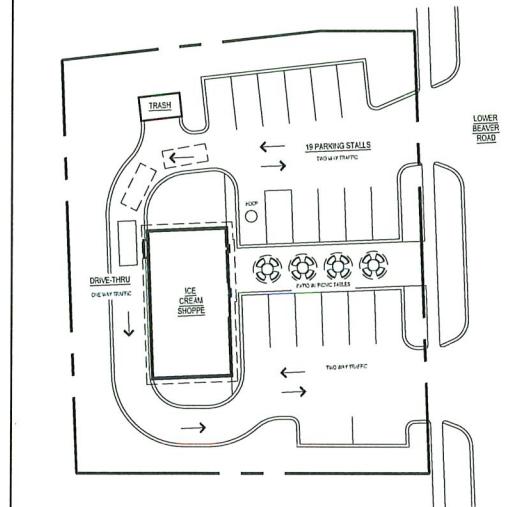


TH2 Arch+Plan
Architecture and Planning

PRELIMINARY SITE PLAN (WITH AERIAL PHOTO)



PRELIMINARY SITE PLAN



Zoning Document
Ice Cream Shoppe

Lower Beaver Road
Des Moines, Iowa

TH2 Arch+Plan # 202510
13 November 2025

A1 Zoning Plan

Scale: 1/4" = 10'

NOTE: 11x17 SHEETS ARE NOT TO SCALE - 12x18 SHEETS ARE HALF SCALE - 24x36 SHEETS ARE FULL SCALE



PLAN NORTH TRUE NORTH

Z001

Project Narrative Description:

We intend to remodel the existing building into an Ice Cream Shoppe. We plan on having exterior seating as well as interior seating. We will also have a Drive-thru for automobile traffic.

The exterior of the current building will remain mostly the same as the exterior will be repainted and the metal roof will be painted to be more appropriate for the new use. We will remove the current overhead doors and replace them with newer Overhead Doors or an entire window wall. The roof is relatively new and will not have to be replaced.

We are not planning any additions to this building besides what is required for the Drive-Thru.

From: sukhvirkaur1796@gmail.com
To: [Neighborhood Meeting](#)
Subject: Neighborhood Meeting Summary Regarding Property at 4540 Lower Beaver Rd Des Moines IA
Date: Saturday, December 13, 2025 11:35:11 PM

EXTERNAL EMAIL - This email was sent by a person from outside your organization. Exercise caution when clicking links, opening attachments or taking further action, before validating its authenticity.

Hello,

Provided below is the written summary of the Neighborhood Association meeting held on 12/04/25 at 7:00 pm, at 2309 Euclid Ave Polk county river place by the neighborhood president Izak Yaw and Independent neighborhood meeting held by Sukhvir with the 20 neighbors listed on the invitation list on December 12, 2025, at 5:00pm, at the Franklin Avenue Library in Des Moines, Iowa.

There was a Neighborhood Association meeting held on 12/04/25 at 7:00 pm, at 2309 Euclid Ave Polk county river place by the neighborhood president Izak Yaw. We were introduced by Izak to the members of the meeting and he gave me an opportunity to explain and talk about the ice cream shop project. Then we presented the concept of the ice cream shop, and the members were excited to hear about the ice cream shop project. There were no concerns or issues raised. We were very well received at the meeting and received lots of positive responses and support.

We held an independent neighborhood meeting on December 12, 2025, at 5:00pm, at the Franklin Avenue Library in Des Moines, Iowa with 20 neighbors. Neighbors on the invitation list were notified about the meeting/proposal through personal mailed invitations, which were mailed out 12/05/25. The meeting was attended by the 2 representatives DGTJ INC and DAM CAM.

At the independent neighborhood meeting, DGTJ INC raised concerns and suggestions related to potential loitering, outdoor seating, and to ensure similar products aren't being sold . DAM CAM has concerns about Traffic flow on Twana Dr.

As concerns clarification of Outdoor seating will be included as part of the project as it attracts people and adds to the overall appeal of the ice cream shop, and supports a family friendly environment.

Concerns regarding loitering were addressed by noting that the business will focus on a family oriented environment . We are preventing the issue of loitering by creating a save and family environment business.

Concerns regarding product, we are selling ice cream which is totally different product. Lastly, the property includes adequate on site parking, and no significant traffic flow issues are anticipate. During the planning, we were also under the impression that the road/traffic would not hinder our project.

Please let us know if any additional information or clarification is needed.

Thank you,
Sukhvir Kaur

Item: ZONG-2025-000035 Date: 12-10-2025

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request



Titleholder Signature: Sukhvir Kaur

Name/Business: SUKHVIR KAUR

Impacted Address: 4540 Lower Beaver Rd, Des Moines

Comments: I am excited for this project
and look forward to it.

Evergreen LLC, 4540 Lower Beaver Road

ZONG-2025-000035

