



Roll Call Number

20-1716

Agenda Item Number

48

Date October 19, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM MUNDO PEQUENITO, LLC TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 1922 SOUTHWEST 1ST STREET

WHEREAS, on October 5, 2020, by Roll Call No. 20-1562, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 17, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Mundo Pequenito, LLC (Owner), represented by Guadalupe Castillo (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 1922 Southwest 1st Street (“Property”) from Mixed Density Residential to Community Mixed Use to allow rezoning to “RX1” Mixed Use District to allow expansion of the existing non-conforming Day Care use; and

WHEREAS, the City Plan and Zoning Commission had further advised that at a public hearing held on September 17, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Mundo Pequenito, LLC (Owner), represented by Guadalupe Castillo (officer), to rezone the Property from “NX2” Neighborhood Mix District to “RX1” Mixed Use District for the above-stated purpose; and

WHEREAS, pursuant to that communication, it was duly resolved by the City Council that the request to amend the land use designation and to rezone the Property be set down for hearing on October 19, 2020 at 5:00 P.M., by electronic means in accordance with the Governor’s and Mayor’s Proclamations and to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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 land use amendment and rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and 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 1922 Southwest 1st Street, legally described as:

THE WEST 82 FEET OF THE EAST 148 FEET OF LOT 13 OF THE OFFICIAL PLAT OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 78 NORTH, RANGE 24; ALSO THE NORTH ½ OF THE ABANDONED RIGHT-OF-WAY OF DES MOINES, INDIANOLA & MISSOURI RAILROAD COMPANY, LYING SOUTH OF AND ABUTTING SAID 82 FEET ABOVE DESCRIBED;



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AND

AN UNNUMBERED TRIANGLE PIECE APPROXIMATELY 2,640 SQUARE FEET, WEST OF AND ADJACENT TO SOUTHWEST 1ST STREET AND NORTH OF AND ADJACENT TO INDIANOLA AVENUE, OFFICIAL PLAT OF THE SOUTHEAST 1/4, SECTION 9, TOWNSHIP 78 NORTH, RANGE 24, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from "NX2" Neighborhood Mix District to "RX1" Mixed Use District for expansion of the existing non-conforming day care use.

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 the PlanDSM future land use designation or rezoning of the Property to RX1 Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the property locally known as 1922 Southwest 1st Street to Community Mixed Use is hereby denied.
3. 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 Mandelbaum TO ADOPT.

FORM APPROVED: Judy K. Parks-Kruse (21-2020-4.18)
Judy K. Parks-Kruse (ZON2020-00099)
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL (7 yeas).

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
J. M. Y... Mayor

P. Kay Cmelik City Clerk



Date October 19, 2020
 Agenda Item 48
 Roll Call # 20-171b

September 29, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 17, 2020 meeting, the following action was taken regarding a request from Mundo Pequenito, LLC (owner) represented by Guadalupe Castillo (officer) to rezone property at 1922 Southwest 1st Street from “NX2” Neighborhood Mix District to “RX1” Mixed Use District to allow expansion of the existing non-conforming 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			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	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 proposed rezoning to “RX1” District be found not in conformance with the existing PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Medium Density Residential to Community Mixed Use and Part C) **APPROVAL** of rezoning the subject property from “NX2” Neighborhood Mix District to “RX1” Mixed-Use District.

Written Responses

2 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “RX1” District be found not in conformance with the existing PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Medium Density Residential to Community Mixed Use.

Part C) Staff recommends approval of rezoning the subject property from “NX2” Neighborhood Mix District to “RX1” Mixed-Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The existing day care is a non-conforming use in the “NX2” Neighborhood Mix District. The proposed rezoning to “RX1” Mixed Use District would allow it to renovate the existing building, reconstruct the existing off-street parking lot, and construct an accessory building. Any future site improvements must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.

2. **Size of Site:** 17,806 square feet (0.41 acre).

3. **Existing Zoning (site):** “NX2” Neighborhood Mix District.

4. **Existing Land Use (site):** The site contains an existing day care use with an outdoor playground and surface parking lot.

5. Adjacent Land Use and Zoning:

North – “DXR”; Uses are Columbus Avenue and a one-household dwelling.

South – “N5”; Uses are Indianola Road and a one-household dwelling.

East – “P2”; Uses are Southwest 1st Street and Saint Anthony’s Church & School.

West – “NX2”; Use is a one-household dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is in an area known as the Two Rivers District, where uses transition from commercial and multiple-household dwellings to one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the McKinley School/Columbus Park Neighborhood and within 250 feet of the Indianola Hills

Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda for the September 3, 2020 meeting on August 14, 2020 and by mailing of the Final Agendas for the September 3, 2020 meeting on August 28, 2020 and for the September 17, 2020 meeting on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 14, 2020 (20 days prior to the public hearing on September 3, 2020) and on August 24, 2020 (10 days prior to the public hearing held on September 3, 2020) to the neighborhood association and 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 McKinley School/Columbus Park Neighborhood mailings were sent to Jim Post, 224 Southeast Livingston Avenue, Des Moines, IA 50315. The Indianola Hills Neighborhood mailings were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

The applicant is responsible for reaching out to the surrounding property owners within 250 feet of the site through a written communication soliciting questions and input. The applicant mailed the required letter on September 4, 2020. They must provide a report on the outcomes of this process prior to the Plan and Zoning Commission meeting and provide a summary at the hearing.

8. Relevant Zoning History: N/A.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: 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 subject property is designated as “Medium Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

Medium Density Residential: Areas developed with a mix of single family, two-family, and multi-family residential units with up to 17 dwelling units per net acre.

The applicant is proposing to rezone the property from “NX2” Neighborhood Mix to “RX1” Mixed-Use District. The proposed “RX1” District requires the “Community Mixed Use” future land use map designation. 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.

The Zoning Ordinance states that “RX1 is intended for transitional areas between MX districts and N districts, providing for residential and office building at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.” Building types allowed in this district include the Commercial Cottage, General Building, Principal-Use Parking Structure Civic Building, Flat Building and Row Building.

The subject site is located along Indianola Road, which is a significant transportation corridor that contains a mix of uses. The proposed land use map designation and zoning district are appropriate to the character of the area and align with the goals of Plan DSM.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.
3. **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.
4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the proposed rezoning to “RX1” District be found not in conformance with the existing PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Medium Density Residential to Community Mixed Use and Part C) **APPROVAL** of rezoning the subject property from “NX2” Neighborhood Mix District to “RX1” Mixed-Use District.

Motion passed: 11-0

Respectfully submitted,



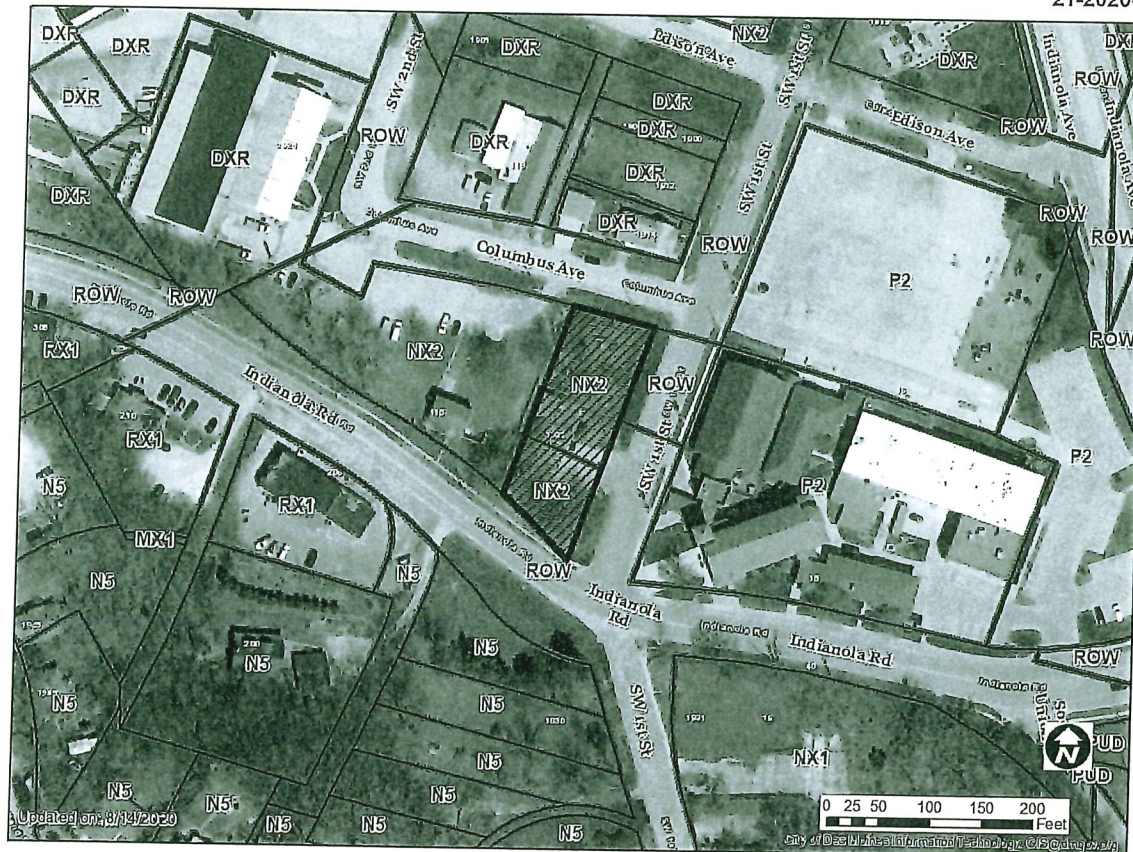
Michael Ludwig, AICP
Planning Administrator

MGL:tjh

Request to Mundo Pequenito, LLC (owner) represented by Guadalupe Castillo (officer) for property at 1922 Southwest 1 st Street.			File #		
			21-2020-4.18		
Description of Action	Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use designation from Medium Density Residential to Community Mixed Use.				
PlanDSM Future Land Use	Current: Medium Density Residential Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	NX2" Neighborhood Mix District				
Proposed Zoning District	"RX1" Mixed Use District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	0	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Mundo Pequenito, LLC, 1922 Southwest 1st Street

21-2020-4.18

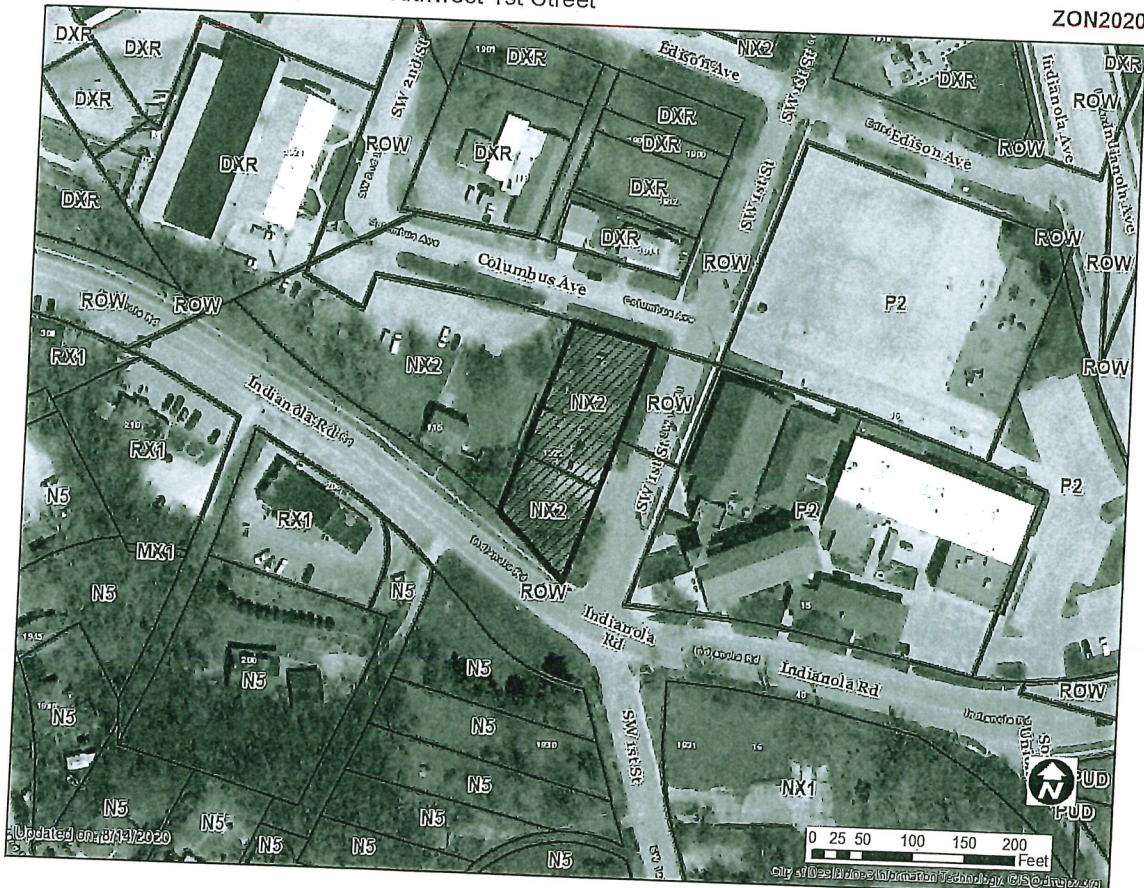


1 inch = 108 feet

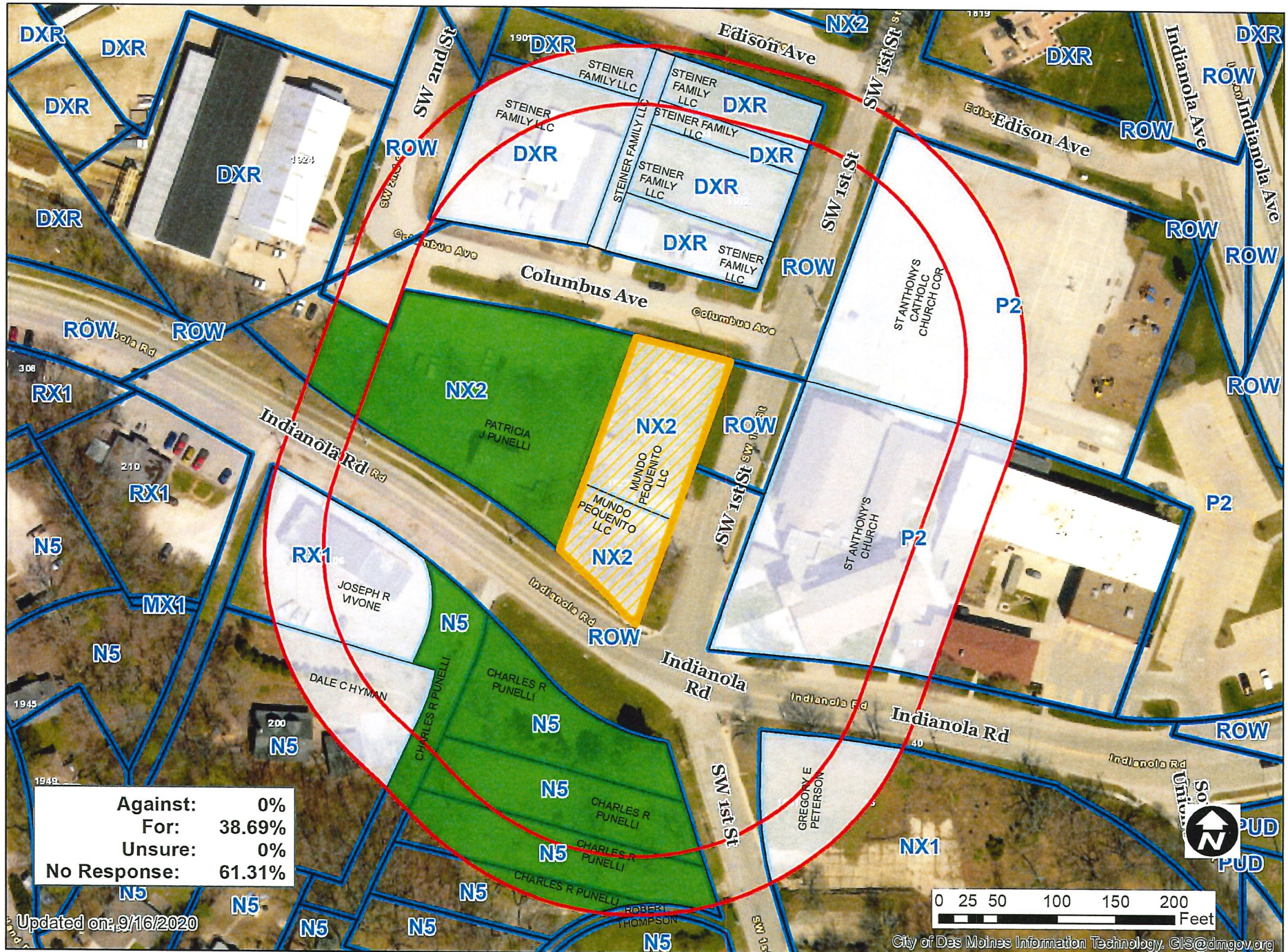
Request to Mundo Pequenito, LLC (owner) represented by Guadalupe Castillo (officer) for property at 1922 Southwest 1st Street.		File #		
		ZON2020-00099		
Description of Action	Rezone property from "NX2" Neighborhood Mix District to "RX1" Mixed Use District to allow expansion of the existing non-conforming Day Care use.			
PlanDSM Future Land Use	Current: Medium Density Residential Proposed: Community Mixed Use.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	NX2" Neighborhood Mix District			
Proposed Zoning District	"RX1" Mixed Use District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	0	0		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Mundo Pequenito, LLC, 1922 Southwest 1st Street

ZON2020-00099



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17
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REGISTER ORDER NO. 11289 ROLL CALL LEGAL BULLETIN BOARD FOLLOW UP

NOTICE OF ELECTRONIC HEARING ON AMENDMENT TO COMPREHENSIVE PLAN
FUTURE LAND USE DESIGNATION AND REZONING

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines, Iowa, has adopted a resolution concerning a request from Mundo Pequenito, LLC (Owner), represented by Guadalupe Castillo (officer), to amend the PlanDSM: Creating Our Tomorrow comprehensive plan future land use designation for property located at 1922 Southwest 1st Street, Des Moines, Iowa, from Mixed Density Residential to Community Mixed Use, and to rezone said property, legally described as follows, from “NX2” Neighborhood Mix District to “RX1” Mixed Use District to allow expansion of the existing non-conforming Day Care use:

THE WEST 82 FEET OF THE EAST 148 FEET OF LOT 13 OF THE OFFICIAL PLAT OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 78 NORTH, RANGE 24; ALSO THE NORTH ½ OF THE ABANDONED RIGHT-OF-WAY OF DES MOINES, INDIANOLA & MISSOURI RAILROAD COMPANY, LYING SOUTH OF AND ABUTTING SAID 82 FEET ABOVE DESCRIBED;

AND

AN UNNUMBERED TRIANGLE PIECE APPROXIMATELY 2,640 SQUARE FEET, WEST OF AND ADJACENT TO SOUTHWEST 1ST STREET AND NORTH OF AND ADJACENT TO INDIANOLA AVENUE, OFFICIAL PLAT OF THE SOUTHEAST ¼, SECTION 9, TOWNSHIP 78 NORTH, RANGE 24, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

A map of the subject property is on file and available for public inspection by sending an email to Planning@dmgov.org or calling (515)689-9485.

NOTICE IS FURTHER GIVEN that the City Council will consider the proposed amendment to future land use designation and proposed rezoning after a public hearing to be held at 5:00 p.m. on October 19, 2020, in the 2nd Floor, MSC Board Room, Richard A. Clark Municipal Services Center, 1551 E. M.L. King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie’s March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager’s decision to delay the opening of City buildings to the public due to the positive trend upward of COVID-19 cases in Polk County and the need to maintain safety, it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below.

To participate in the electronic meeting, access is available via the internet or telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/96010679021?pwd=cFpOZ2ZlNUUWZHMmNlJTWEZz09>

20-1716

Passcode: 915229

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 960 1067 9021

International numbers available: <https://dmgov-org.zoom.us/j/add8CTKwAG>

At the hearing, opportunity to be heard will be given to proponents and opponents of the proposed amendment to future land use designation and proposed rezoning. In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 4:00 p.m. on October 19, 2020 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

CITY OF DES MOINES, IOWA

By: T.M. Franklin Cownie, Mayor

ATTEST: P. Kay Cmelik, City Clerk

Published in the Des Moines Register on October 8, 2020.



20-1716

DES MOINES, CITY OF
400 ROBERT D RAY DR

DES MOINES IA 503091813

of Affidavits 1
This is not an invoice

AFFIDAVIT OF PUBLICATION

State of Wisconsin

County of Brown, ss.:

The undersigned, being first duly sworn on oath, states that The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

THE DES MOINES REGISTER

newspaper of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an advertisement, a printed copy of which is attached as Exhibit "A" and made part of this affidavit, was printed and published in The Des Moines Register on the following dates:

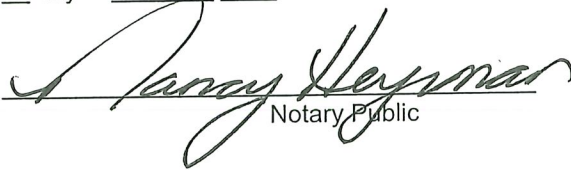
Ad No.	Start Date:	Run Dates:	Cost:
0004404227	10/8/20	10/08/2020	\$69.48

Copy of Advertisement
Exhibit "A"



Staff member, Register Media

Subscribed and sworn to before me by said affiant this
8 day of October, 2020



Notary Public

5.15.23

Commission expires

NANCY HEYRMAN
Notary Public
State of Wisconsin

PD11289j #69.48

20-1716

NOTICE OF ELECTRONIC HEARING ON AMENDMENT TO COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION AND REZONING NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines, Iowa, has adopted a resolution concerning a request from Mundo Pequenito, LLC (Owner), represented by Guadalupe Castillo (officer), to amend the PlanDSM: Creating Our Tomorrow comprehensive plan future land use designation for property located at 1922 Southwest 1st Street, Des Moines, Iowa, from Mixed Density Residential to Community Mixed Use, and to rezone said property, legally described as follows, from "NX2" Neighborhood Mix District to "RX1" Mixed Use District to allow expansion of the existing non-conforming Day Care use:

THE WEST 82 FEET OF THE EAST 148 FEET OF LOT 13 OF THE OFFICIAL PLAT OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 78 NORTH, RANGE 24; ALSO THE NORTH 1/2 OF THE ABANDONED RIGHT-OF-WAY OF DES MOINES, INDIANOLA & MISSOURI RAILROAD COMPANY, LYING SOUTH OF AND ABUTTING SAID 82 FEET ABOVE DESCRIBED;

AND AN UNNUMBERED TRIANGLE PIECE APPROXIMATELY 2,640 SQUARE FEET, WEST OF AND ADJACENT TO SOUTHWEST 1ST STREET AND NORTH OF AND ADJACENT TO INDIANOLA AVENUE, OFFICIAL PLAT OF THE SOUTHEAST 1/4 SECTION 9, TOWNSHIP 78 NORTH, RANGE 24, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

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 Passcode: 915229

Or join by phone:
 Dial (for higher quality, dial a number based on your current location):
 US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)
 Webinar ID: 960 1067 9021

International numbers available:
<https://dmgov-org.zoom.us/j/add8CTKwAG>

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CITY OF DES MOINES, IOWA
 By: T.M. Franklin Cownie, Mayor
 ATTEST: P. Kay Cmelik, City Clerk
 Published in the Des Moines Register on October 8, 2020.

PD11289; \$69.48