

Date November 9, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM CASEY'S MARKETING COMPANY TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 3121 FOREST AVENUE

WHEREAS, on October 19, 2020, by Roll Call No. 20-1655, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 1, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Casey's Marketing Company (developer), represented by Erik Nikkel (agent), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 3121 Forest Avenue ("Property") from Neighborhood Mixed Use within a Neighborhood Node to Community Mixed Use within a Neighborhood Node, to allow rezoning to Limited MX3 Mixed Use District and redevelopment of the Property with a 3,400 square foot store for retail sales, limited use with the ability to request Conditional Use approval from the Zoning Board of Adjustment for a business that sells alcoholic liquor; and

WHEREAS, on October 19, 2020, by Roll Call No. 20-1655, the City Council further received the City Plan and Zoning Commission's recommendation that at a public hearing held on October 1, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Casey's Marketing Company to rezone the Property from MX1 Mixed Use District to Limited MX3 Mixed Use District for the above-stated purpose, subject to the following conditions:

1. The only Permitted and Conditional Uses on the Property shall be sales of packaged alcoholic liquor following and subject to approval of a Conditional Use by the Zoning Board of Adjustment, and those Permitted and Conditional Uses in common with and as limited by the MX1 Mixed Use District.
2. Accessory structures located on the Property shall be limited to those permitted in the MX1 Mixed Use District in accordance with Des Moines Municipal Code Chapter 135, Table 135-2.22-1; and

WHEREAS, on October 19, 2020, by Roll Call No. 20-1655, 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 November 9, 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 3121 Forest Avenue, legally described as:

LOTS 13,14 AND 15 OF BLOCK 7 IN MERRITT & FISCHERS PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA



Roll Call Number

20-1830

Agenda Item Number

56

Date November 9, 2020

from MX1 Mixed Use District to Limited MX3 Mixed Use District to allow redevelopment of the Property with a 3,400 square foot store for retail sales, limited use with the ability to request Conditional Use approval from the Zoning Board of Adjustment for a business that sells alcoholic liquor.

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 Limited MX3 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 3121 Forest Avenue to Community Mixed Use within a Neighborhood Node is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to Limited MX3 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 Gray TO ADOPT.

FORM APPROVED:

/s/Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(21-2020-4.20)
(ZON2020-00109)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN		✓		
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6	1		

MOTION CARRIED

APPROVED

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.

T. M. Frankha Cowrie
Mayor

P. Kay Cmelik
City Clerk