



Roll Call Number

20-2153

Agenda Item Number

55 (c)

Date December 21, 2020

**RESOLUTION HOLDING HEARING ON CITY-INITIATED REQUEST TO REZONE
PROPERTY LOCATED IN THE AREA EAST OF SOUTHEAST 2ND STREET IN THE
MARKET DISTRICT**

WHEREAS, on November 23, 2020, by Roll Call No. 20-1876, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 5, 2020, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a City-initiated request to rezone real property located east of Southeast 2nd Street in the area of the Historic East Village of east downtown Des Moines known as the Market District (“Property”) from DX2 Downtown District and/or P2 Public, Civic and Institutional District to Limited DX1 Downtown District, to allow for a master-planned, mixed use urban redevelopment of the area and incorporated viewshed protection corridor to respect State Capitol Building dominance requirements, subject to the following condition:

1. The maximum height of all building(s) constructed or developed on the Property that are located outside the viewshed corridor, which corridor is identified by the viewshed analysis presented to the Plan and Zoning Commission and legally described below, shall be limited to the height shown on the Large-Scale Development Plan unless relief thereto is granted pursuant to Chapter 135 of the Des Moines Municipal Code; and

WHEREAS, on November 23, 2020, by Roll Call No. 20-1876, the City Council further received communication from the City Plan and Zoning Commission advising that said Commission voted 14-0 in support of a motion to **APPROVE** the Large-Scale Development Plan for the Market District development area including the Property, submitted by The District Developer, LLC (developer/purchaser), represented by Paul Hayes, subject to addition of a table on Sheet 3 thereof indicating the maximum building heights outside the identified viewshed protection corridor for the corresponding block number, and the Commission further voted 14-0 in support of a motion to find the Large-Scale Development Plan in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan; and

WHEREAS, on November 23, 2020, by Roll Call No. 20-1876, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on December 7, 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 rezoning; and

WHEREAS, on December 7, 2020, by Roll Call No. 20-2058, the City Council opened and continued the hearing on said proposed rezoning to the City Council meeting on December 21, 2020 at 5:00 P.M., by electronic means; and

★ Roll Call Number

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WHEREAS, in accordance with said notice and resolution continuing hearing, 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.

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property, including the viewshed corridor with corresponding maximum building height limitations incorporated into the proposed rezoning as shown in the legal description below, legally described as follows:

BLOCKS 5, 6, K, L, AND M, AND A PART OF BLOCKS 7(or Q) AND N, AND PART OF VACATED STREET RIGHT OF WAYS ADJOINING SAID BLOCKS, ALL IN SCOTT AND DEAN'S ADDITION, AN OFFICIAL PLAT, AND BLOCKS 30 AND 31, AND A PART OF BLOCKS 17 AND 44, AND THE NORTH HALF OF MARKET SQUARE, AND PART OF VACATED STREET RIGHT OF WAYS ADJOINING SAID BLOCKS, ALL IN TOWN OF DE MOINE, AN OFFICIAL PLAT; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT OF WAY LINE OF VACATED SOUTHEAST 2ND STREET AND THE NORTH RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR PARKWAY; THENCE NORTH ALONG SAID WEST RIGHT OF WAY TO A LINE ON SAID WEST RIGHT OF WAY LINE THAT IS 26 FEET SOUTH OF AND PARALLEL WITH THE SOUTH RIGHT OF WAY LINE OF VACATED EAST VINE STREET; THENCE EAST ALONG SAID LINE THAT IS 26 SOUTH OF AND PARALLEL WITH SAID SOUTH RIGHT OF WAY LINE OF VACATED EAST VINE STREET TO THE EAST RIGHT OF WAY LINE OF VACATED SOUTHEAST 2ND STREET; THENCE NORTH ALONG SAID EAST RIGHT OF WAY LINE TO SAID SOUTH RIGHT OF WAY LINE OF EAST VINE STREET; THENCE EAST ALONG SAID SOUTH RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 3RD STREET; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE OF SOUTHEAST 3RD STREET TO THE SOUTHWEST CORNER OF BLOCK 4 IN SAID TOWN OF DE MOINE; THENCE CONTINUING SOUTH ALONG THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID BLOCK 4, A DISTANCE OF 16 FEET; THENCE EAST ALONG A LINE THAT IS 16 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 4 TO THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID BLOCK 4; THENCE NORTH ALONG SAID SOUTHERLY EXTENSION OF THE EAST LINE OF SAID BLOCK 4 AND ALONG SAID EAST LINE OF SAID BLOCK 4 TO WESTERLY EXTENSION OF THE NORTH LINE OF LOT 3 IN SAID BLOCK 17; THENCE EAST ALONG SAID WESTERLY EXTENSION AND ALONG SAID NORTH LINE OF SAID LOT 3 AND ALONG THE EASTERLY EXTENSION OF SAID NORTH LINE OF SAID LOT 3 TO THE NORTHWEST CORNER OF LOT 8 IN SAID BLOCK 17; THENCE CONTINUING EAST ALONG THE NORTH LINE OF SAID LOT 8 TO THE WEST LINE OF THE EAST 129 FEET OF LOTS 9 AND 10 IN SAID BLOCK 17; THENCE NORTH ALONG SAID WEST LINE OF THE EAST 129 FEET OF SAID LOTS 9 AND 10 TO SAID SOUTH RIGHT OF WAY LINE OF EAST VINE STREET; THENCE EAST ALONG SAID SOUTH RIGHT OF WAY LINE OF EAST VINE STREET TO THE WEST RIGHT OF WAY LINE OF SOUTHEAST 6TH STREET; THENCE SOUTH ALONG SAID WEST RIGHT OF WAY LINE OF SOUTHEAST 6TH STREET TO THE



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SOUTH RIGHT OF WAY LINE OF EAST MARKET STREET; THENCE WEST ALONG SAID SOUTH RIGHT OF WAY LINE OF EAST MARKET STREET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 5TH STREET; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE OF SOUTHEAST 5TH STREET TO SAID NORTH RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR PARKWAY; THENCE WEST ALONG SAID NORTH RIGHT OF WAY LINE OF MARTIN LUTHER KING JR PARKWAY TO THE POINT OF BEGINNING

AND

VIEWSHED CORRIDOR (HEIGHT LIMITATIONS):

DESCRIPTION J:

A part of Blocks 3, 4, 5, 7, 8, and 10, that part of East Elm Street, East Market Street, East Vine Street, Southeast 2nd Street, SE Third Street, SE 4th Street, and SE 5th Street, all in The Market District, an Official Plat now included in and forming a part of the City of Des Moines, and a part of Lot 8, Block 4, Scott and Dean's Addition, an Official Plat now included in and forming a part of the City of Des Moines, and a part of Lots 1 and 2, Block 17, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, also known as a part of Lots 1-8 and part of vacated alleys, Block 5, Lots 1, 7, and 8 and part of vacated alleys, Block L, Lots 1-3 and 7-10 and part of vacated alleys, Block M, Scott and Dean's Addition, an Official Plat now included in and forming a part of the City of Des Moines, and a part of Lots 1-10 and part of vacated alleys, Block 17, Lots 1 and 2, Block 30, and a part of the North Half of Market Square, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the southeast corner of Block 1, The Market District, said point designated as Point A; thence North 15 degrees 05 minutes 34 seconds West, along the east line of said Block 1, also being the west line of said Block 4, a distance of 195.45 feet to a point designated as Point B; thence North 37 degrees 56 minutes 05 seconds East, 1299.80 feet, said point designated as Point D; thence North 74 degrees 40 minutes 51 seconds East, a distance of 454.68 feet to a point on the west line of SE 6th Street, said point designated as Point E; thence South 15 degrees 03 minutes 59 seconds East on said west line, a distance of 6.22 feet to a point designated as Point F; thence South 41 degrees 07 minutes 29 seconds West, 1771.96 feet to a point on the south line of Lot 2, of said Block 4, said point designated as Point G; thence North 64 degrees 54 minutes 07 seconds West, along said south line, a distance of 15.95 feet to a point designated as Point H; thence North 89 degrees 49 minutes 59 seconds West, along a south line of said Lot 2, a distance of 8.46 feet to the Point of Beginning.

Area contains 346,552 square feet.

The above described area is constrained vertically below a flat plane with NAVD88 datum elevations as follows:

- Point A - 855.85' (feet)
- Point B - 859.11' (feet)
- Point D - 895.93' (feet)
- Point E - 909.27' (feet)
- Point F - 909.26' (feet)
- Point G - 856.15' (feet)
- Point H - 856.01' (feet)

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from DX2 Downtown District and/or P2 Public, Civic and Institutional District to Limited DX1 Downtown District, to allow for a master-planned, mixed use urban redevelopment of the Market District area and incorporated viewshed protection corridor to respect State Capitol Building dominance requirements.

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 Limited DX1 Downtown District, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited DX1 Downtown District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to the condition stated above and to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Gatto TO ADOPT.

(Council Communication No. 20-568)

FORM APPROVED:

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

(ZON2020-00085)
(East of SE 2nd St.)

* Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

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

MOTION CARRIED APPROVED

J. M. Frank Cownie 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.

[Signature of P. Kay Cmelik]

City Clerk