



Date May 24, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM FAREWAY STORES, INC. TO AMEND PLANDSM FUTURE LAND USE CLASSIFICATION AND TO REZONE 2723 41ST PLACE

WHEREAS, on April 19, 2021, by Roll Call No. 21-0614, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on April 1, 2021, its members voted 11-2 in support of a motion to recommend **DENIAL** of a request from Fareway Stores, Inc. (purchaser), represented by Matt Heath (officer), to amend the PlanDSM: Creating Our Tomorrow comprehensive plan future land use classification for real property locally known as 2723 41st Place (“Property”) from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node, and to rezone the Property from N4 Neighborhood District to Limited MX3 Mixed-Use District, to accommodate an ingress/egress drive from 41st Place to route traffic from Urbandale Avenue to the adjoining lot, at 2716 Beaver Avenue, being redeveloped for a Limited Retail Sales use including a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs; and

WHEREAS, on April 19, 2021, by Roll Call No. 21-0614, 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 May 10, 2021, at 5:00 p.m., by electronic means 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, on May 10, 2021, by Roll Call No. 21-0731, the City Council opened and continued said hearing to 5:00 p.m. on May 24, 2021, by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location, and directed the City Manager and Legal Department to prepare the necessary legislation to approve the proposed land use amendment and rezoning subject to conditions acceptable to the City and the owner; and

WHEREAS, City Development Services staff worked with the applicant to establish conditions related to the rezoning, as follows, which conditions are included in an Acceptance of Rezoning executed by the property owner and by Fareway Stores, Inc. as the property purchaser:

- 1) The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.
- 2) Accessory structures shall be limited to Drive-Through Facility and those permitted in the MX1 Mixed Use District per Table 135-2.22-1.
- 3) Commercial truck traffic is prohibited from using 41st Place to enter or exit the site.
- 4) Parking shall not extend further west than the west façade of the house on the adjoining lot to the south.
- 5) Private traffic signage and markings shall be installed that would prohibit drivers from making a left turn movement from the site access onto 41st Place. These traffic control devices would use signs stating, “No Left Turn” in word and/or graphic form and pavement markings directing exiting drivers and vehicles from the parking lot to only make a right turn onto 41st Place to discourage left turns from the parking lot onto 41st Place. The traffic signage and pavement markings shall

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conform to the Manual on Uniform Traffic Control Devices and be maintained by the parking lot owner for the life of the certificate of occupancy; 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 2723 41st Place, legally described as:

LOT B OF GRASSMERE NO. 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from N4 Neighborhood District to Limited MX3 Mixed-Use District, to accommodate an ingress/egress drive from 41st Place to route traffic from Urbandale Avenue to the adjoining lot, at 2716 Beaver Avenue, being redeveloped for a Limited Retail Sales use including a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs, subject to the above-stated conditions; 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.

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 land use amendment and proposed rezoning of the Property to Limited MX3 Mixed-Use 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 Low Density Residential within a Neighborhood Node 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.

FORM APPROVED:

MOVED BY GRAY TO ADOPT.

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

(21-2021-4.08)
(ZON2021-00118)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

[Signature]
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]

City Clerk