



Roll Call Number

21-0928

Agenda Item Number

75

Date June 14, 2021 Reconvened on June 16, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM MENARD, INC. TO AMEND
PLANDSM FUTURE LAND USE DESIGNATION FOR PROPERTY LOCATED AT
5907 SOUTHEAST 8TH STREET AND 801 HART AVENUE, AND TO
REZONE PROPERTY LOCATED AT 6000 SOUTHEAST 14TH STREET,
5907, 5911 AND 5917 SOUTHEAST 8TH STREET, AND 801 HART AVENUE**

WHEREAS, on May 24, 2021, by Roll Call No. 21-0774, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on May 6, 2021, its members voted 11-1 in support of a motion to recommend **APPROVAL** of a request from Menard, Inc. (owner), represented by Theron Berg (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 5907 Southeast 8th Street and 801 Hart Avenue from Community Mixed Use within a Community Node to Low Density Residential within a Community Node for the purposes stated below; and

WHEREAS, the City Plan and Zoning Commission has further advised that its members voted 11-1 in support of a motion to recommend **APPROVAL** of a request from Menard, Inc. (owner), represented by Theron Berg (officer), to allow the rezoning of 5907 Southeast 8th Street and portions of 801 Hart Avenue from Limited CX-V Mixed Use District to N3a Neighborhood District to allow retention of two single-household residences that are no longer proposed for redevelopment, and to allow the rezoning of real property locally known as 6000 Southeast 14th Street, and 5911 and 5917 Southeast 8th Street, from Limited CX-V Mixed Use District to revised Limited CX-V Mixed Use District to revise the zoning conditions contained in Ordinance 15,929 related to the proposed Large-Format Retail Sales Use on said property, with said revised zoning conditions as follows:

1. The development shall be carried out in accordance with the Large-Scale Development Plan presented to the Plan and Zoning Commission on May 6, 2021.
2. No outdoor storage of merchandise in the outdoor display area of the property shall be stacked higher than the perimeter fencing.
3. Any new external lighting on the property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
4. Any use of the property for a bar or a liquor store shall be prohibited.
5. Any commercial use of the property shall be in conformance with an approved site plan that demonstrates that the entire site is in conformance with the current landscaping standards contained in City Code Chapter 135. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.)
6. Any commercial expansion on the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
7. All necessary permits shall be obtained for the construction of any building or wall upon the property.
8. Prior to issuance of the Certificate of Occupancy for any commercial use of the property, the professional who signed the site plan shall submit a letter to the City's Planning Administrator, certifying that the property has been improved in substantial conformance with the approved site plan; and



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WHEREAS, on May 24, 2021, by Roll Call No. 21-0774, it was duly resolved by the City Council that the request to amend PlanDSM and to rezone the property be set down for hearing on June 14, 2021 at 5:00 P.M., in the Council Chambers; 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 amendment to PlanDSM and proposed rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed amendment to PlanDSM and 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; 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 5907 Southeast 8th Street and portions of 801 Hart Avenue, legally described as:

5907 SE 8th Street and Portions of 801 Hart Avenue:

LOT 9 AND THE SOUTH 6.5 FEET OF LOT 8 IN JORDAN PLACE, PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

AND

THE SOUTHERN 145 FEET OF THE WESTERN 85 FEET OF LOT 12 IN JORDAN PLACE, PLAT 3, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from Limited CX-V Mixed Use District to N3a Neighborhood District to allow retention of two single-household residences that are no longer proposed for redevelopment; and

WHEREAS, the Legal Department has further prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the property locally known as 6000 Southeast 14th Street, and 5911 and 5917 Southeast 8th Street, legally described as:

6000 SE 14th Street, 5911 SE 8th Street, and 5917 SE 8th Street:

THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., POLK COUNTY, IOWA.

EXCEPT:

PARCEL "C" IN THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL BEING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 27; THENCE SOUTH 00°00'00" EAST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 834.66 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 60.00 FEET, TO A POINT ON



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THE WESTERLY RIGHT-OF-WAY (R.O.W.) LINE OF S.E. 14TH STREET (U.S. HIGHWAY 69), SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE SOUTH 00°00'00" EAST, ALONG SAID WESTERLY R.O.W. LINE OF S.E. 14TH STREET, A DISTANCE OF 127.14 FEET; THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 266.56 FEET; THENCE NORTH 40°37'26" WEST, A DISTANCE OF 54.49 FEET; THENCE NORTH 23°55'15" EAST, A DISTANCE OF 93.84 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 263.99 FEET, TO A POINT ON THE SAID WESTERLY R.O.W. LINE OF S.E. 14TH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING, CONTAINING 36,035 SQUARE FEET, MORE OR LESS; RECORDED IN POLK COUNTY BOOK 10068 AT PAGE 308.

AND

PARCEL "F" IN THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. POLK COUNTY, IOWA, AS DESCRIBED ON THE AMENDED PLAT OF SURVEY RECORDED JUNE 16, 2006 IN BOOK 11704, PAGE 659 IN THE OFFICE OF THE POLK COUNTY RECORDER.

AND

LOTS 5, 6 AND SOUTH 150 FEET OF WEST 88.4 FEET OF LOT 7, BOWLARAMA PLACE, ACCORDING TO THE PLAT THEREOF; AND ALSO NORTH HALF OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 (N1/2 OF NE1/4 OF SE1/4) OF SECTION 27, TOWNSHIP 78, RANGE 24 WEST OF THE 5TH PRINCIPAL MERIDIAN, EXCEPT THE EAST 661.4 FEET AND EXCEPT THE NORTH 505.7 FEET THEREOF, POLK COUNTY, IOWA.

AND

LOTS 10, 11, 12 IN JORDAN PLACE, PLAT 3, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPTING THE SOUTHERN 145 FEET OF THE WESTERN 85 FEET THEREOF.

from Limited CX-V Mixed Use District to revised Limited CX-V Mixed Use District to revise the zoning conditions contained in Ordinance 15,929 related to the proposed Large-Format Retail Sales Use on said property, subject to the above-stated revised conditions as agreed to in writing by the owner(s) of said property.

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 PlanDSM and proposed rezoning of the above-described property 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 real property locally known as 5907 Southeast 8th Street and 801 Hart Avenue, from



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Community Mixed Use within a Community Node to Low Density Residential within a Community Node, is hereby approved.

3. The proposed rezoning of the real property locally known as 5907 Southeast 8th Street and portions of 801 Hart Avenue, as legally described above, to N3a Neighborhood 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 said property as set forth herein.

4. The proposed rezoning of the real property 6000 Southeast 14th Street, and 5911 and 5917 Southeast 8th Street, as legally described above, to revised Limited CX-V Mixed Use District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to the above-stated revised conditions and final passage of an ordinance rezoning said property as set forth herein.

MOVED BY Gatto TO ADOPT.

FORM APPROVED:

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

(21-2021-4.10)
(ZON2021-00030)

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

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. Franklin Cownie
Mayor

P. Kay Cmelik City Clerk