



Roll Call Number

21.1958

Agenda Item Number

69

Date December 20, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM CFD PROPERTIES, LLC TO AMEND PLANDSM FUTURE LAND USE CLASSIFICATION AND TO REZONE 2300 EAST 14ST STREET

WHEREAS, on December 6, 2021, by Roll Call No. 21-1822, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 18, 2020, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from of a request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property located at 2300 East 14st Street (“Property”) from Neighborhood Mixed Use and Low-Medium Density to Industrial, to allow a use that includes outdoor storage; and

WHEREAS, on December 6, 2021, by Roll Call No. 21-1822, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on November 18, 2021, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to rezone from ‘MX1’ Mixed Use District to ‘I1’ Industrial District for the above-stated; and

WHEREAS, on December 6, 2021, by Roll Call No. 21-1822, 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 December 20, 2021, at 5:00 p.m., at the City 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 land use amendment and rezoning; and

WHEREAS, the Property is legally described as follows:

LOTS 1, 2, 3, 4, 5, AND 6 IN BLOCK 5 IN ARLINGTON HEIGHTS, AN OFFICIAL PLAT, EXCEPT THAT PART DESCRIBED AS: BEGINNING A THE SOUTHEAST CORNER OF SAID LOT 6; THENCE NORTH 80°48’42” WEST ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 7.41 FEET; THENCE NORTH 2°38’39” EAST, 50.12 FEET; THENCE SOUTH 89°47’00” EAST ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 5.40 FEET; THENCE SOUTH 0°21’03” WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 50.07 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; 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 amendment to the PlanDSM future land use designation to Industrial, or to the proposed rezoning of the Property to ‘I1’ Industrial District, are received and the hearing is closed.



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Alternative A

MOVED by Westergaard to adopt and DENY the proposed amendment to the PlanDSM future land use designation and the proposed rezoning, and to make the following findings of fact regarding said proposals:

- a. The City Plan and Zoning Commission voted 11-0 to recommend denial of the requested proposed amendment to the PlanDSM future land use designation to Industrial and proposed rezoning of the Property to 'I1' Industrial District, to allow a use that includes outdoor storage.
- b. The current PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Neighborhood Mixed Use and Low-Medium Density, and current zoning designation is 'MX1' Mixed Use District, which provides for low and low-medium housing with limited supporting commercial uses.
- c. In accordance with the adoption of PlanDSM, the area in which the Property is located is intended to accommodate small commercial uses that support the surrounding area, which are primarily uses that are completely contained inside of the building that houses the business use, rather than industrial uses that are accompanied by outdoor storage.
- d. The Property is located in a small cluster of commercial uses located that include a laundromat and a medical clinic. These are in a larger neighborhood and area that contains single-household uses and church uses, which is consistent with the character of the neighborhood at the adoption of PlanDSM in 2016.
- e. The proposed amendment to the PlanDSM future land use designation of the Property and the proposed rezoning to allow for industrial character use would not be consistent with the intent of the PlanDSM comprehensive plan for the subject neighborhood/area or with uses already found there.
- f. If the proposed amendment to the PlanDSM future land use designation of the Property to Industrial is not approved, then the proposed rezoning to I1 Industrial District is inapplicable due to non-conformance with the PlanDSM designation of Neighborhood Mixed Use and Low-Medium Residential.
- g. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by _____ to continue the public hearing until 5:00 p.m. on January 10, 2022, at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and to direct the City Manager and Legal Department to prepare the necessary legislation to APPROVE the proposed amendment to the PlanDSM future land use designation and the proposed rezoning subject to conditions acceptable to the City and the owner(s).

FORM APPROVED:

Judy K. Parks-Kruse
Judy K. Parks-Kruse, Assistant City Attorney

(ZONG2021-000032)
(ZON2021-000038)



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

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.

J. M. Franklin Cowrie

Mayor

P. Kay Cmelik

City Clerk