



Roll Call Number

22-1051

Agenda Item Number

54 ✓

Date June 27, 2022

RESOLUTION HOLDING HEARING ON REQUEST FROM JAIME VILLAFANA (OWNER) REGARDING PROPERTY LOCATED AT 3732 EASTON BOULEVARD TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION FROM PARKS AND OPEN SPACE TO COMMUNITY MIXED USE AND TO REZONE THE PROPERTY FROM “F” FLOOD DISTRICT AND “MX1” MIXED-USE DISTRICT TO “MX3” MIXED-USE DISTRICT

WHEREAS, on June 13, 2022, by Roll Call No. 22-0881, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on May 19, 2022, the City Plan and Zoning Commission voted 12-0 in support of a motion finding that the proposed rezoning was inconsistent with PlanDSM future land use map; and

WHEREAS, on June 13, 2022, by Roll Call No. 22-0881, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on May 19, 2022, its members voted 12-0 in support of a motion to recommend **DENIAL** of a request from Jaime Villafana (Owner), to amend the PlanDSM: Creating Our Tomorrow future land use designation for the Property located at 3732 Easton Boulevard from Parks and Open Space to Community Mixed Use; and

WHEREAS, on June 13, 2022, by Roll Call No. 22-0881, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on held on May 19, 2022, its members voted 12-0 in support of a motion to recommend **DENIAL** of a request from Jaime Villafana (Owner), to rezone the Property from “F” Flood District and “MX1” Mixed-Use District, to “MX3” Mixed Use District, to allow use of the existing building as an Industrial Service Light or Office Use; and

WHEREAS, on June 13, 2022, by Roll Call No. 22-0881, it was duly resolved by the City Council that the request for approval of the proposed PlanDSM Comprehensive Future Land Use Plan amendment and rezoning of the Property, legally described as follows, be set down for hearing on June 27, 2022, at 5:00 P.M., in the Council Chamber at City Hall:

PARCEL “D”

LOTS 736, 737, AND 738 IN FOUR MILE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; 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 the Zoning Ordinance and PlanDSM Comprehensive Future Land Use Plan amendment; and

WHEREAS, in accordance with said notice, those interested in said proposed Comprehensive Future Land Use Plan 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.



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NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

Alternative A

MOVED by Westergaard, and seconded by Gatto, to adopt the recommendation of the Plan and Zoning Commission 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:

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: Creating Our Tomorrow Comprehensive Future Land Use Plan designation for 3732 Easton Boulevard, or the proposed rezoning of the Property from "F" Flood District and "MX1" Mixed-Use District to "MX3" Mixed-Use District are hereby received and filed, and the hearing is closed.
2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the Property locally known as 3732 Easton Boulevard from Parks and Open Space to Community Mixed Use is inconsistent with the policy and intent of the City as reflected in the comprehensive plan and land use map for the City generally.
3. The proposed rezoning of the Property, as legally described above, to "MX3" Mixed-Use District, is hereby found to not be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan as amended and is, accordingly, denied.
4. 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 _____ and seconded by _____, to continue the public hearing until 5:00 p.m. on July 18, 2022, in the City Council Chambers, 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).

APPROVED AS TO FORM:

/s/ Gary D. Goudelock Jr.
Gary D. Goudelock Jr.
Assistant City Attorney



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

MOTION CARRIED

APPROVED

J. M. Frankhu Cownie Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner Acting City Clerk