

★ **Roll Call Number**

22-1468

**Agenda Item Number**

69

**Date** September 12, 2022

**RESOLUTION HOLDING PUBLIC HEARING ON REQUEST FROM IOWA LABORERS' EDUCATION & TRAINING TRUST FUND (OWNER), REPRESENTED BY EDWARD ELY (OFFICER) FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4580 HUBBELL AVENUE: TO RECEIVE AND FILE THE LARGE SCALE DEVELOPMENT PLAN, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM INDUSTRIAL TO COMMUNITY MIXED-USE, TO AMEND THE BAKER "PUD" CONCEPTUAL PLAN TO REMOVE APPROXIMATELY 6.9 ACRES TO BE REZONED TO LIMITED "MX3" MIXED-USE DISTRICT, AND TO REZONE THE PROPERTY FROM BAKER "PUD" DISTRICT TO "MX3" MIXED-USE DISTRICT, TO ALLOW ASSEMBLY – PLACE OF WORSHIP AND ASSEMBLY AND ENTERTAINMENT (COMMERCIAL) USE**

**WHEREAS**, on August 4, 2022, the City Plan and Zoning Commission considered a request from Iowa Laborers' Education & Training Trust Fund (owner), represented by Edward Ely (officer) regarding the following for property located at 4580 Hubbell Avenue:

- A) Determination as to whether the requested amendment to the Baker "PUD" Conceptual Plan and rezoning are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.
- C) Amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited "MX3" Mixed-Use District.
- D) Rezone property from Baker "PUD" District to "MX3" Mixed-Use District, to allow Assembly - Place of Worship and Assembly and Entertainment (Commercial) use; and

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 4, 2022, its members voted 11-0 in support of a motion finding the following for Property located at 4580 Hubbell Avenue:

- A) The requested rezoning and amendment to the Baker "PUD" Conceptual Plan is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.
- B) Approval of the request to amend the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Community Mixed-Use.
- C) Approval of the request to amend the Baker "PUD" Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited "MX3" Mixed-Use District subject to the following: the applicant shall submit an amended "PUD" Conceptual Plan that eliminates the area that is being rezoned to "MX3" Mixed-Use District, to the

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satisfaction of the City's Planning & Urban Design Administrator.

D) Approval of the request to rezone property from Baker "PUD" District to "MX3" Mixed-Use District; and

**WHEREAS**, the Property is legally described as follows:

Parcel "2019-39" of the Plat of Survey dated March 12, 2019, recorded in Book 17269, Page 266 of the Office of the Polk County Recorder on March 25, 2019, as located in part of the Northeast Quarter of Section 21, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M., City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Southeast Corner of said Parcel "I" of the Plat of Survey recorded in Book 14417, Page 700 of the Office of the Polk County Recorder; thence South 55°26'34" West assumed bearing for this description along the Southeasterly Line of said Parcel "I", a distance of 10.00 feet to the Point of Beginning; thence continuing South 55°26'34" West along the South Line of said Parcel "I", a distance of 180.73 feet; thence North 34°33'25" West, a distance of 260.52 feet; thence North 82°28'36" West, a distance of 787.30 feet to a point on the North Line of said Parcel "I"; thence North 70°57'01" East along said North Line, a distance of 946.29 feet; thence South 89°50'34" East, a distance of 192.32 feet to a point on the East Line of said Parcel "I"; thence South 00°09'26" West along said East Line, a distance of 507.78 feet to a point on the North Right-of-Way Line of Frederick M. Hubbell Avenue; thence South 27°48'00" West along the North Right-of-Way Line of Frederick M. Hubbell Avenue, a distance of 17.72 feet to the Point of Beginning, containing 7.12 Acres, subject to all easements, restrictions and covenants of record.

**WHEREAS**, on August 22, 2022, by Roll Call No. 22-1328, it was duly resolved by the City Council that the request for approval of the proposals set forth above be set down for hearing on September 12, 2022, 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 proposals; and

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**WHEREAS**, in accordance with said notice, those interested in said proposals, 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 said proposals are hereby overruled, and the hearing is closed.
2. The large-scale development plan is hereby received and filed.
3. The requested rezoning and amendment to the Baker “PUD” Conceptual Plan is hereby found not to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates this area as Industrial.
4. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Industrial to Community Mixed-Use is hereby approved.
5. The proposed request to amend the Baker “PUD” Conceptual Plan to remove approximately 6.9 acres to be rezoned to Limited “MX3” Mixed-Use District, to the satisfaction of the City’s Planning & Urban Design Administrator, is hereby approved.
6. The proposed rezoning of the Property, as legally described above, from Baker “PUD” District to “MX3”, to allow assembly – place of worship and assembly and entertainment (commercial) use, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Westergaard TO ADOPT.

SECOND BY Boesen.

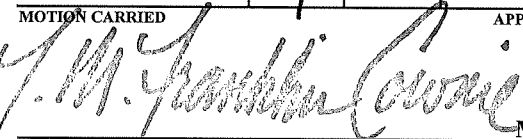
FORM APPROVED:

/s/ Lisa A. Wieland

Lisa A. Wieland

Assistant City Attorney

(ZONG-2022-000066, 2022-000070, 2022-000062)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
SHEUMAKER	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED				
APPROVED				
 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.



Acting City Clerk