



**Roll Call Number**

23-D530

**Agenda Item Number**

58

**Date** April 10, 2023

**RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM TB BUILDING, LLC (OWNER), REPRESENTED BY STEPHEN RONEY (OFFICER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED AT 1202 THOMAS BECK ROAD**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on March 2, 2023, its members voted 12-2 in support of a motion to recommend **APPROVAL** of a request from TB Building, LLC (Owner), represented by Stephen Roney (Officer), for the proposed rezoning from “NX1” Neighborhood District to “EX” Industrial District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential; and

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on March 2, 2023, its members voted 12-2 in support of a motion to recommend **APPROVAL** of a request from TB Building, LLC (Owner), represented by Stephen Roney (Officer), for the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Business Park; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on March 2, 2023, its members voted 12-2 in support of a motion to recommend **APPROVAL** of a request from TB Building, LLC (Owner), represented by Stephen Roney (Officer), to rezone the Property from “NX1” Neighborhood District to “EX” Industrial District to allow multiple uses, including a religious assembly, fabrication and production, and office; and

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

BEGINNING AT A POINT WHICH IS AT THE INTERSECTION OF THE SOUTH LINE OF THOMAS BECK ROAD AND A LINE WHICH IS 20 FEET EAST OF THE WEST LINE OF SAID LOT 14; THENCE S 00°19'01" E, A DISTANCE OF 468.71 FEET ALONG A LINE 20 FEET EAST OF THE WEST LINE OF SAID LOT 14; THENCE N 89°39'07" E, A DISTANCE OF 50 FEET ALONG THE NORTH LINE OF VACATED GRAY STREET; THENCE N 00°19'01" W, A DISTANCE OF 172.00 FEET; THENCE N 89°38'07" E, A DISTANCE OF 395.62 FEET; THENCE S 00°19'01" E, A DISTANCE OF 172.00 FEET TO A POINT ON THE NORTH LINE OF VACATED GRAY STREET; THENCE N 89°38'07" E, A DISTANCE OF 100.00 FEET ALONG THE NORTH LINE OF VACATED GRAY STREET; THENCE N 00°19'01" W, A DISTANCE OF 45.00 FEET ALONG THE WEST LINE OF VACATED S. W. 12TH STREET; THENCE N 89°38'07" E, A DISTANCE OF 373.04 FEET ALONG THE NORTH LINE OF BUTLER'S SECOND ADDITION TO DES MOINES TO A POINT ON THE NORTHWEST LINE OF JOE P. DAVIS ROAD; THENCE N 45°43'15" E, A DISTANCE OF 158.67 FEET ALONG THE NORTHWEST LINE OF JOEL P. DAVIS ROAD; THENCE N 49°08'56" W, A DISTANCE OF 892.51 FEET TO A POINT ON THE SOUTH LINE OF THOMAS BECK ROAD; THENCE ALONG THE ARC OF A CURVE, CONCAVE TO THE



**Roll Call Number**

23-0530

**Agenda Item Number**

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**Date** April 10, 2023

NORTH, A DISTANCE OF 229.92 FEET TO A POINT OF TANGENCY, SAID CURVE HAVING A RADIUS OF 1910.08 FEET AND A CENTRAL ANGLE OF 06°53'51.5", A CHORD BEARING OF S 50°42'38.4" W AND A CHORD LENGTH OF 229.80 FEET; THENCE S 54°09'34.1" W, A DISTANCE OF 224.04 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART OF LOT 12 CONVEYED TO THE CITY OF DES MOINES BY WARRANTY DEED RECORDED IN BOOK 16872, PAGE 272.; and

**WHEREAS**, on March 27, 2023, by Roll Call No. 23-0393, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing April 10, 2023, 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

**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 statements of interested persons and arguments of counsel, any and all comments for and against the proposed future land use classification amendment and rezoning of the Property to "NX1" Neighborhood District to "EX" Industrial District to allow multiple uses, including a religious assembly, fabrication and production, and office, are hereby received and filed, and the hearing is closed.

**Alternative A**

MOVED BY Gatto to **APPROVE** the proposed amendment to PlanDSM: Creating Our Tomorrow Plan and **APPROVE** the proposed rezoning requested by TB Building, LLC and described above, and to make the following findings in support of approval:

- a. The City Plan and Zoning Commission voted 12-2 to recommend approval of a request from TB Building, LLC (Owner), represented by Stephen Roney (Officer), to rezone the Property from "NX1" Neighborhood District to "EX" Industrial District to allow multiple uses, including a religious assembly, fabrication and production, and office.
- b. The City Plan and Zoning Commission voted 12-2 to recommend approval of the amendment of the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Business Park.



**Date** April 10, 2023

- c. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Low Density Residential to Business Park is hereby approved.
- d. The proposed rezoning of the Property, as legally described above, from “NX1” Neighborhood District to “EX” Industrial District to allow multiple uses, including a religious assembly, fabrication and production, and office, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

**Alternative B**

MOVED BY \_\_\_\_\_ to **DENY** the proposed amendment to PlanDSM: Creating Our Tomorrow Plan and **DENY** the proposed rezoning requested by TB Building, LLC, and to make the following findings of fact regarding the proposed amendment and rezoning:

- a. The PlanDSM: Creating Our Tomorrow Plan Land Use Plan future land use designation of the property is Low Density Residential, which is not in conformance with the proposed Industrial use of the Property.
- b. 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.

SECOND BY Voss.

FORM APPROVED: Motion by Mandelbaum to deny failed 3-3. Nays: Gatto, Westergaard and Voss.

/s/ Chas M. Cahill  
Chas M. Cahill  
Assistant City Attorney

(ZONG-2023-000006) (COMP-2023-000006)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
SHEUMAKER				✓
MANDELBAUM		✓		
VOSS	✓			
WESTERGAARD	✓			
TOTAL	5	1		1
MOTION CARRIED	APPROVED			

**CERTIFICATE**

I, LAURA BAUMGARTNER, 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 Cownie Mayor

Laura Baumgartner City Clerk