

Date November 6, 2023

HOLD PUBLIC HEARING ON REQUEST FROM BREW OIL, LLC (OWNER), REPRESENTED BY RUPINDER KAUR (OFFICER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED AT 4140 PARK AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 21, 2023, its members voted 8-0 in support of a motion to recommend **DENIAL** of a request from Brew Oil, LLC (owner), represented by Rupinder Kaur (officer), for the proposed rezoning for Property located at 4140 Park Avenue from “RX1” Mixed Use District to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use; and to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Neighborhood Mixed Use to Community Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on September 21, 2023, its members voted 8-0 in support of a motion to recommend **DENIAL** of a request from Brew Oil, LLC (owner), represented by Rupinder Kaur (officer), to rezone the Property from “RX1” Mixed Use District to “MX3” Mixed Use District, to allow the redevelopment of an existing building as a convenience store with liquor sales; and

WHEREAS, after discussion with the City of Des Moines Development Services Department, Brew Oil, LLC (owner), represented by Rupinder Kaur (officer) requests to rezone the Property from “RX1” Mixed Use District to Limited “MX3” Mixed Use District, to allow for the redevelopment of an existing building as a convenience store with liquor sales, and to determine that the amendment to the PlanDSM: Creating Our Tomorrow Comprehensive Plan to revise the future land use classification for the property from Neighborhood Mixed Use to Community Mixed Use in not necessary given the zoning conditions, subject to the condition that use of the property shall be limited to the following:

1. Any use as permitted and limited in the “RX1” Mixed Use District.; and/or
2. A “Retail Sales, Limited” or “Fuel Station” use, with sales of alcoholic liquor, wine, and/or beer only so long as the Zoning Board of Adjustment grants any Conditional Use necessary for such use.; and

WHEREAS, the Property is legally described as follows:

THE NORTH 200 FEET OF THE WEST 173 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 19, TOWNSHIP 78 NORTH, RANGE 24, WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT LEGALLY ESTABLISHED HIGHWAYS.; and

★ **Roll Call Number**
23-1571

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WHEREAS, on October 2, 2023, by Roll Call No. 23-1322, it was duly resolved by the City Council that the request for approval of the proposed amendment and zoning be set down for hearing on October 23, 2023, at 5:00 p.m., at the City Council Chambers; and

WHEREAS, on October 23, 2023, by Roll Call No. 23-1493, it was duly resolved by the City Council that the request for approval of the proposed amendment and zoning be opened and continued to the City Council meeting on November 6, 2023, at 5:00 p.m., at the City Council Chambers, to allow the City Manager and Legal Department prepare the necessary legislation to approve the request; 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 and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, from "RX1" Mixed Use District to Limited "MX3" Mixed Use District, to allow for the redevelopment of an existing building as a convenience store with liquor sales, subject to the conditions set forth above, 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 the Property as set forth herein.

**(APPROVAL REQUIRES SIX VOTES DUE TO THE PLAN & ZONING
COMMISSION RECOMMENDING DENIAL)**

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MOVED BY Mandelbaum TO ADOPT.

SECOND BY Voss

FORM APPROVED:

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

(ZONG-2023-000052) (COMP-2023-000029)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			

MOTION CARRIED

APPROVED

J. M. Frank Cownie Mayor

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.

Laura Baumgartner City Clerk