



Roll Call Number

24-0959

Agenda Item Number

32

Date July 15, 2024

RESOLUTION SETTING HEARING ON REQUEST FROM TASTY KING OF IOWA, LLC (OWNER), REPRESENTED BY NEIL THOMSON (OFFICER), TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED AT 205 UNIVERSITY AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 20, 2024, its members voted 11-0 in support of a motion finding the requested rezoning for Property located at 205 University Avenue is not in conformance with the existing PlanDSM future land use designation of Industrial within a Community Node; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 202, 2024 its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Tasty King of Iowa, LLC (Owner), represented by Neil Thomson (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan future land use designation for Property located at 205 University Avenue from Industrial within a Community Node to Community Mixed Use within a Community Node; to rezone the Property from “MX2” Mixed Use District to “MX3” Mixed Use District to bring an existing restaurant with a drive-through use into conformance with zoning regulations, and determined the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan:

WHEREAS, the Property is legally described as follows:

LOT 131, EXCEPT THE EAST FIVE FEET (5) THEREOF, AND ALL OF LOT 130 IN RUTHERFURD HEIGHTS, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA; AND

LOT 132, (EXCEPT THE EAST 5 FEET THEREOF) IN RUTHERFURD HEIGHTS, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA; AND

LOT 133 AND THE NORTH ONE-HALF OF LOT 134 IN RUTHERFURD HEIGHTS, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA (EXCEPT THE EAST FIVE FEET THEREOF).

EXCEPT

THAT PART OF LOTS 130 THROUGH 134, RUTHERFURD HEIGHTS, AN OFFICIAL PLAT, DESCRIBED AS FOLLOWS: BEGINNING IN THE NORTHEAST CORNER OF SAID LOT 130, THENCE SOUTH 0° (DEGREES) 00' (MINUTES) 00" (SECONDS) EAST ALONG THE EAST LINE OF SAID LOT 130, A DISTANCE OF 49.93 FEET; THENCE NORTH 89°28'20" WEST ALONG THE SOUTH LINE OF SAID LOT 130, A DISTANCE OF 5.00 FEET; THENCE SOUTH 0°00'00" EAST ALONG THE WEST RIGHT-OF-WAY LINE OF 2ND AVENUE, A DISTANCE OF 174.76 FEET; THENCE NORTH 89°31'33" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, A

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DISTANCE OF 20.50 FEET; THENCE NORTH 45°12'13" EAST, A DISTANCE OF 14.09 FEET; THENCE NORTH 0°00'00" EAST, A DISTANCE OF 84.28 FEET; THENCE NORTH 2°17'26" EAST, A DISTANCE OF 50.04 FEET; THENCE NORTH 0°00'00" EAST, A DISTANCE OF 80.39 FEET; THENCE SOUTH 89°27'28" EAST ALONG THE NORTH LINE OF SAID LOT 130, A DISTANCE OF 13.50 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed amendment to PlanDSM Creating Our Tomorrow comprehensive Plan and proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposal, shall be held at 5:00 p.m. on August 5, 2024 in the Council Chambers, City Hall, 400 Robert D. Ray, Drive, Des Moines.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED BY Gatto TO ADOPT.

SECOND BY Coleman.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney

(ZONG-2024-000014) (COMP-2024-000011)

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

Carl B. Jones

Mayor
Pro Tem

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