



Roll Call Number

.....24-1103.....

Agenda Item Number

41

DateAugust 5, 2024.....

RESOLUTION HOLDING PUBLIC HEARING REGARDING 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 to recommend **APPROVAL** of a request from Tasty King of Iowa, LLC (Qwner), represented by Neil Thomson (Officer), for the proposed rezoning from “MX2” 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 Industrial within a Community Node; and

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 to recommend **APPROVAL** of a request from Tasty King of Iowa, LLC (Qwner), represented by Neil Thomson (Officer), for the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Industrial within a Community Node to Community Mixed Use within a Community Node; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on June 20, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Tasty King of Iowa, LLC (Qwner), represented by Neil Thomson (Officer), 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

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



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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 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.; and

WHEREAS, on July 15, 2024, by Roll Call No. 24-0959, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing on August 5, 2024, 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 and all statements of interested persons and arguments of counsel, any objections to the proposed amendment and rezoning are hereby overruled, and the hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Industrial within a Community Node to Community Mixed Use within a Community Node is hereby approved.
3. The proposed rezoning of the Property, as legally described above, 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, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

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MOVED BY Coleman TO ADOPT. SECOND BY Mandelbaum.

FORM APPROVED:

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

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL.

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.

Connie Boeser Mayor

Laura Baumgartner City Clerk