



Roll Call Number

26-0126

Agenda Item Number

31

Date January 26, 2026

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM EVERGREEN, LLC (OWNER), REPRESENTED BY SUKHVIR KAUR (OFFICER), FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4540 LOWER BEAVER ROAD, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM LOW MEDIUM DENSITY RESIDENTIAL TO NEIGHBORHOOD MIXED USE, AND TO REZONE THE PROPERTY FROM "NX2" NEIGHBORHOOD MIX DISTRICT TO LIMITED "RX1" MIXED-USE DISTRICT TO ALLOW REUSE OF AN EXISTING NON-CONFORMING AUTO REPAIR BUILDING FOR AN ICE CREAM SHOP AND DRIVE-THROUGH

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), for the proposed rezoning from "NX2" Neighborhood Mix District to Limited "RX1" Mixed-Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed-Use; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Medium Density Residential to Neighborhood Mixed-Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on December 18, 2025, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Evergreen, LLC (Owner), represented by Sukhvir Kaur (Officer), to rezone the Property from "NX2" Neighborhood Mix District to Limited "RX1" Mixed-Use District, to allow the reuse of an existing non-conforming auto repair building for an ice cream shop and drive-through, subject to the following conditions:

1. Overgrowth and weeds shall be removed from the property prior to the property being occupied for commercial use to the satisfaction of the Planning and Urban Design Administrator, and the property shall be maintained in that state.

WHEREAS, the Property is legally described as follows:

Part of the Southwest 1/4 of the Northeast 1/4 of Section 20, Township 79, Range 14, West of the 5th P.M., described as follows: Beginning at the Northwest corner of the Southwest 1/4 of the Northeast 1/4 of said Section 20, thence East 654.3 feet thence South 1°46' East, 454.1 feet parallel and 33 feet distant from the center of Lower Beaver Road to the point of beginning; thence South 90°00' West 32.0 feet to P.C. of 14°54' curve to left; thence along said 14°54' curve to left a distance of 88.4 feet; thence South 1046' East, 140 feet parallel to Lower Beaver Road;



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thence South 90°00' East, 120 feet to a point 33 feet from center line of Lower Beaver Road, thence North 1°46' West, 150 feet to point of beginning; all now included in and forming a part of the City of Des Moines, Polk County, Iowa.; and

WHEREAS, on January 12, 2026, by Roll Call No. 26-0065, 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 January 26, 2026, 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 proposal, 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 amendment to PlanDSM: Creating Out Tomorrow Plan to revise the future land use classification for the property from Low Medium Density Residential to Neighborhood Mixed-Use is hereby approved.
3. The proposed rezoning of the Property, as legally described above, from "NX2" Neighborhood Mix District to Limited "RX1" Mixed-Use District to allow the reuse of an existing non-conforming auto repair building for an ice cream shop and drive-through subject to the condition set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

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Moved by Barrow to adopt.

Second by Gatto.

FORM APPROVED:

/s/ Emily A. Duffy

Emily A. Duffy

Assistant City Attorney

(ZONG-2025-000035)

(COMP-2025-000027)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
BARRON	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Connie Boesen

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