



Date November 23, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM FAREWAY STORES, INC. TO REZONE PROPERTY LOCATED AT 2716 BEAVER AVENUE

WHEREAS, on November 9, 2020, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 15, 2020, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Fareway Stores, Inc. (owner), represented by Koby Pritchard (officer), to rezone the real property locally known as 2716 Beaver Avenue (“Property”) from ‘MX1’ Mixed Use District to ‘MX3’ Mixed Use District to allow redevelopment of the property with a 7,759-square foot Retail Sales, Limited use with the ability to request a Conditional Use for a business that sells alcoholic liquor, subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by the Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District; and
2. Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1; and

WHEREAS, on November 9, 2020, by Roll Call No. 20-1763, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on November 23, 2020 at 5:00 P.M., by electronic means in accordance with the Governor’s and Mayor’s Proclamations and to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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 proposed land use amendment and rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 2716 Beaver Avenue, legally described as:

LOTS 29, 30 AND 31 AND THE NORTH HALF OF LOT 32 IN GRASSMERE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; AND

LOT “A” IN GRASSMERE NO. 2, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.



Roll Call Number

Agenda Item Number

55


Date November 23, 2020

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 of the Property to Limited MX3 Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited MX3 Mixed Use District, 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.

MOVED BY _____ TO ADOPT.

FORM APPROVED:


 Judy K. Parks-Kruse
 Assistant City Attorney

(ZON2020-00118)

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

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

City Clerk



Date November 23, 2020

Agenda Item 55

Roll Call # _____

November 3, 2020

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their October 15, 2020 meeting, the following action was taken regarding a request from Fareway Stores, Inc. (owner) represented by Koby Pritchard (officer) to rezone property located at 2716 Beaver Avenue from "MX1" Mixed Use District to "MX3" Mixed Use District to allow redevelopment of the property with a 7,759-square foot Retail Sales, Limited use with the ability to request a Conditional Use for a business that sells alcoholic liquor.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

APPROVAL of Part A) the proposed rezoning to "MX3" Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) **APPROVAL** of rezoning the subject property from "MX1" Mixed Use District to "MX3" Mixed-Use District subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.
2. Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

(ZON2020-00118)

Written Responses

6 in Favor

1 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use.

Part B) Staff recommends approval of rezoning the subject property from “MX1” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.
2. Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to develop a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs. The proposed business model would include sale of packaged liquor, wine and beer. The submitted site sketch and building elevation concepts indicate that the developer is proposing a Storefront Building Type with a drive-through window on the south façade.
2. **Size of Site:** 18,359 square feet.
3. **Existing Zoning (site):** “MX1” Mixed Use District.
4. **Existing Land Use (site):** Vacant building formerly used for financial service with accessory drive-through access.
5. **Adjacent Land Use and Zoning:**

North – “MX1”; Uses are Limited Retail Sales and a Restaurant.

South – “MX1”; Uses are Limited Retail Sales stores and a Restaurant.

East – “MX1”; Use is Limited Retail Sales store.

West – “N4; Uses are One Household Living dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is in a mixed-use node on the Beaver Avenue corridor where it intersects with Urbandale Avenue. It contains a mix of Commercial uses surrounded by mixed densities of Residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Beaverdale Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 25, 2020 (20 days prior to the hearing) and October 5, 2020 (10 days prior to the hearing) to the Beaverdale Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Beaverdale Neighborhood Association notices were mailed to Marcus Coenen, PO Box 30175, Des Moines, IA 50310.

8. **Relevant Zoning History:** The subject property was zoned to “MX1” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Neighborhood Node.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated “Community Mixed Use” within a Neighborhood Node. Plan DSM describes this designation as follows:

Community Mixed Use

Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and

service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

In general, liquor sales would require a Conditional Use that could be approved by the Zoning Board of Adjustment in the "MX3" Mixed Use District that would be found consistent with "Community Mixed Use". Based on this designation, the proposed "MX3" District zoning would be found in conformance with the Comprehensive Plan. The Zoning Ordinance states that "MX3" is intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobile. This district accommodates higher intensity commercial uses at a smaller scale. Building types allowed in this district include the Storefront, Commercial Cottage, Commercial Center, Principal-Use Parking Structure, and Civic Building.

Staff believes the proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor and the site being located within a Neighborhood Node.

Because of the proximity of the project to One Household Living uses in the neighborhood to the west, Staff is concerned about the introduction of permitted uses and accessory structures with the proposed rezoning that would only be conducive to the highest volume traffic, mixed use corridors.

For example, hotel/motels, bars, general retail sales (larger than 12,000 square feet) and fuel stations are uses permitted in "MX3" District but not the "MX1" District. These uses, if permitted, would present adverse impacts to the residential area to the north. Furthermore, assembly uses would require more scrutiny of the Conditional Use review by the Zoning Board of Adjustment in the "MX1" District versus the "MX3" District. And, the "MX3" District would allow for accessory structures permitting fuel station functions. This would also present adverse impact.

Staff recommends that any rezoning to the "MX3" District only allow the added ability to request a Conditional Use to allow sale of packaged alcoholic liquor plus the same Permitted and Conditional Uses in common with the "MX1" District as restricted by the "MX1" District. Also, Staff recommends that accessory structures should be limited to only Drive-Through Facility and those allowed in the "MX1" District. By limiting the rezoning of the property to "MX3" as described, the use of the property would be able to remain compatible with the One Household Living uses nearby to the west. It should be noted that based on Chapter 134 Section 134-3.8.1.C.3.d, liquor, wine or beer may not be dispensed made through a drive-through window.

- 2. Planning and Design Ordinance:** Any redevelopment must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The applicant has provided a concept of the development using the Storefront Type with the building built-to the front property lines at the intersection. This would generally be consistent with the intent of the Ordinance. However, Site Plan development would be subject to full review under the Code. Staff support of the proposed rezoning should not be construed as support for future variance or conditional use applications to the Zoning Board of Adjustment.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Koby Pritchard 715 8th Street Boone, IA representing Fareway Stores stated this would be their fifth meat market location with this being their first in Des Moines. The market in Beaverville has been on their radar for ten-plus years and have been waiting for the right opportunity to bring this concept to the neighborhood. They want to provide a 7,800-square foot concept that will focus on their meat market and provide a wide variety of other groceries as well. They will also provide prepared foods with a courtyard area where people will be able to sit down and eat.

CHAIRPERSON OPENED THE PUBLIC HEARING

Kimberly Boggus 1713 45th Street stated the Beaverville Neighborhood Association has spoken at great lengths around this project and is in support. They do have neighbors that are concerned about this new concept not fitting in with the 1930's architecture that already exists.

Jay Cox Kozel 2108 36th Street stated this project will be a great addition and any concerns can be remedied as Fareway has been very engaged with adjoining businesses and the Beaverville Neighborhood Association. They are very excited to get this project moving forward.

Tim West 2727 Southwest Snyder Blvd representing Snyder and Associates asked if there will be any parking restrictions within the MX3 zoning district?

Jason Van Essen stated staff isn't requesting any conditions that would impact parking at this time. Parking would be something staff looks at during the site plan review and any relief needed would go through the Plan and Zoning commission.

Dave Clark, owner of Uptempo Music Store located at 2714 Beaver Avenue, stated that he is concerned that four off-street parking stalls will be lost due to the proposed Fareway driveway location. He is concerned about visibility at the intersection and the loss of parking affects all businesses.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Koby Pritchard stated at this stage, it is only a concept. They want to collect as much feedback as they can around what people want to see and be able to incorporate all they can.

Koby Pritchard stated they are trying to figure out how to keep 2 of the on-street parking spaces and open to ideas on how to do that.

Tim West stated they are extending a driveway return along the South which would be close to the property line. Their main concern is to preserve the mural while trying to maintain balance in traffic flow. They will not be impacting the stalls on the North but will impact the stalls to the South. They will continue to look at this issue and hopefully find a solution by the time the site plan is reviewed.

Francis Boggus stated as a resident of the Beaverdale Neighborhood he is excited about Fareway and applauds them for their engagement with the neighborhood association and surrounding businesses.

Greg Wattier stated he is also in favor of this rezoning but does have some concerns that can be addressed when they review the site plan.

COMMISSION ACTION:

Greg Wattier made a motion for approval of Part A) the proposed rezoning to "MX3" Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) **APPROVAL** of rezoning the subject property from "MX1" Mixed Use District to "MX3" Mixed-Use District subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the "MX1" Mixed Use District and as limited in the "MX1" Mixed Use District.
2. Accessory structures shall be limited to Drive-Through Facility and those permitted in the "MX1" Mixed Use District per Table 135-2.22-1.

Motion passed: 13-0

Respectfully submitted,



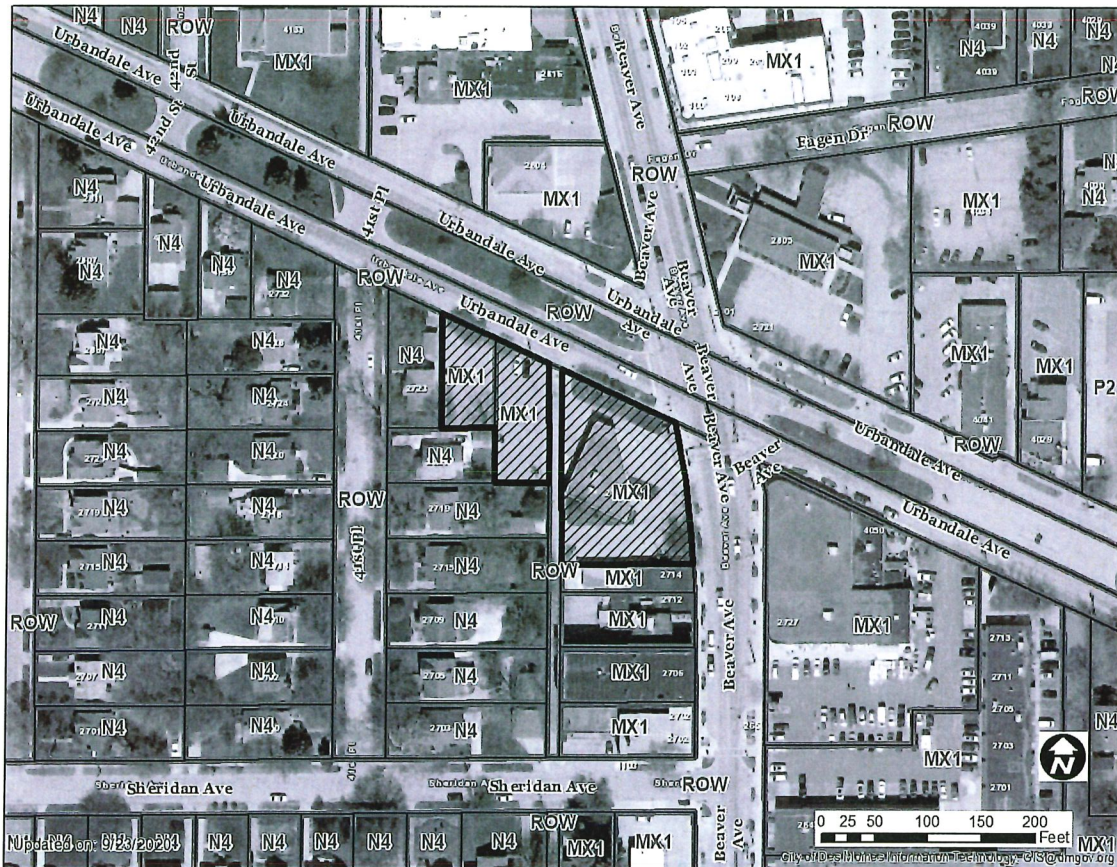
Michael Ludwig, AICP
Planning Administrator

MGL:tjh

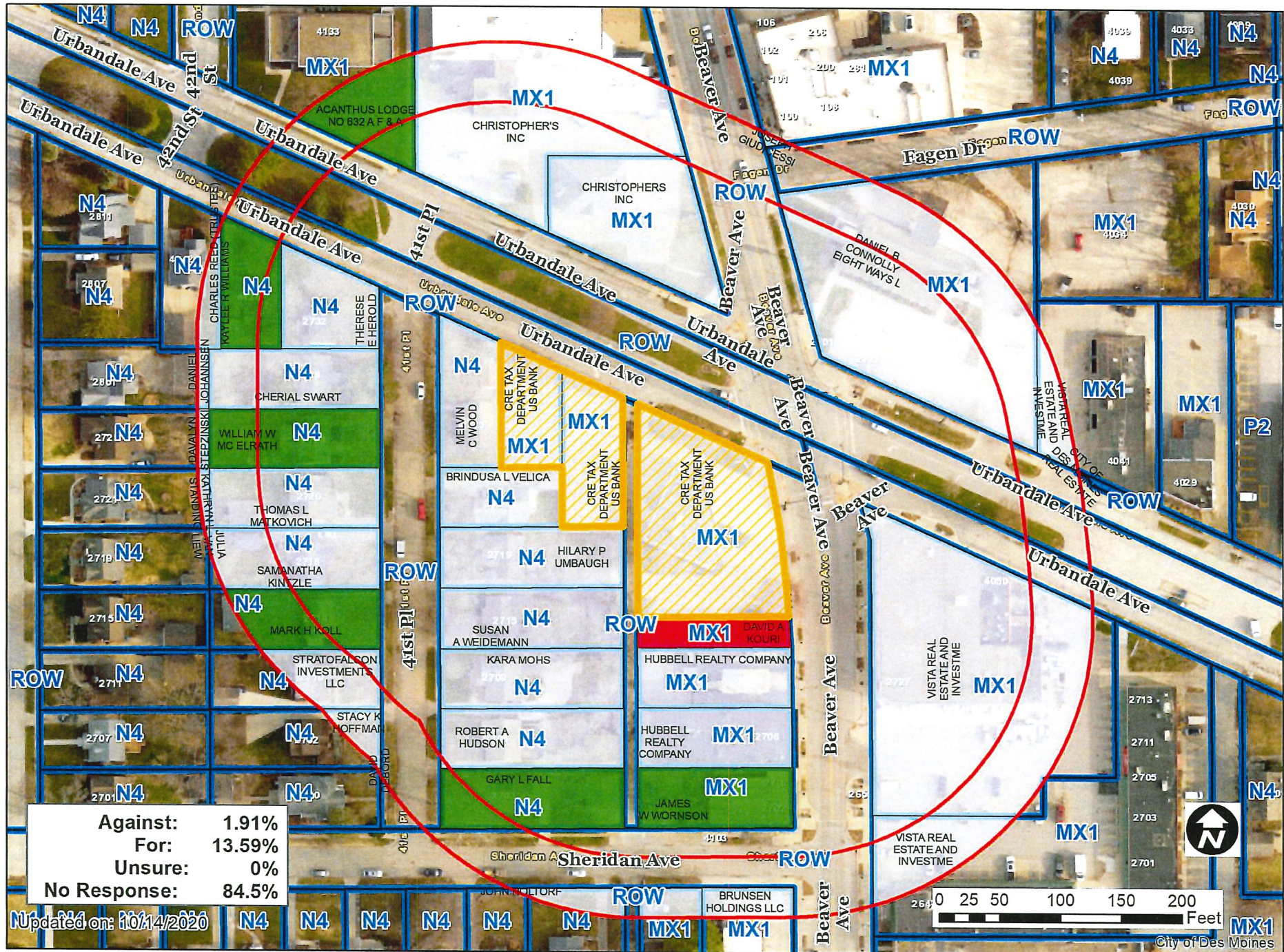
Request from Fareway Stores, Inc. (owner) represented by Koby Pritchard (officer) for the property at 2716 Beaver Avenue.			File # ZON2020-00118	
Description of Action	Rezone property from "MX1" Mixed Use District to "MX3" Mixed Use District to allow redevelopment of the property with a 7,759-square foot Retail Sales, Limited use with the ability to request a Conditional Use for a business that sells alcoholic liquor.			
PlanDSM Future Land Use	Current: Community Mixed Use within a Neighborhood Node. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX1" Mixed Use District.			
Proposed Zoning District	"MX3" Mixed Use District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	6	1		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Fareway Stores, Inc., 2716 Beaver Avenue

ZON2020-00118



1 inch = 105 feet



Item: ZON2020-00118

Date: 10-8-20 55

I (am) (am not) in favor of the request:

(Circle One)

Print Name: Gary L Fall

RECEIVED
COMMUNITY DEVELOPMENT

Signature: Gary L Fall

OCT 13 2020

Address: 2703-41st Place

Reason for opposing or approving this request may be listed below:

Item: ZON2020-00118

Date: 10/8/2020

I (am) (am not) in favor of the request:

(Circle One)

Print Name: Kaylee Williams

RECEIVED
COMMUNITY DEVELOPMENT

Signature: Kaylee Williams

OCT 13 2020

Address: 4138 Urbandale Ave

Reason for opposing or approving this request may be listed below:

MEAT!!!

Item: ZON2020-00118

Date: 10/7/20 55

I (am) (am not) in favor of the request:

(Circle One)

Print Name: JAY COX-KOZEL

RECEIVED
COMMUNITY DEVELOPMENT

OCT 13 2020

Signature: 

Address: 2702 BEAVER AVE.

Reason for opposing or approving this request may be listed below:

FULLY SUPPORT. A GOOD DEVELOPMENT FOR
THE NEIGHBORHOOD.

- JAY COX-KOZEL

OWNER @ BACK COUNTRY & PROPERTY MGR FOR ²⁷⁰² BEAVER

Item: ZON2020-00118

Date: 10-8-20

I (am) (am not) in favor of the request:

(Circle One)

Print Name: CHAD DONLITZER

RECEIVED
COMMUNITY DEVELOPMENT

OCT 13 2020

Signature: 

Address: 4133 Urbandale Ave. Dm 5021

Reason for opposing or approving this request may be listed below:

Welcome!

Item: ZON2020-00118

Date: 10-7-20

I (am) (am not) in favor of the request:

(Circle One)

Print Name: MARK H KOLL

RECEIVED
COMMUNITY DEVELOPMENT

Signature: Mark H Koll

OCT 13 2020

Address: 2714-41ST PLACE

Reason for opposing or approving this request may be listed below:

We in Beavercreek have needed a food and meat retail store for a long time, plus a stand alone clock at Beaver and Urbanside Ave.

Item: ZON2020-00118

Date: 10/8/2020

I (am) (am not) in favor of the request:

(Circle One)

Print Name: William Mc Elrath

RECEIVED
COMMUNITY DEVELOPMENT

Signature: [Signature]

OCT 13 2020

Address: 2724 41st Place

Reason for opposing or approving this request may be listed below:

Glad to see new business in the area

Item: ZON2020-00118 Date: 10-7-20

I (am) (am not) in favor of the request:
(Circle One)

Print Name: DAVE KOURI

RECEIVED
COMMUNITY DEVELOPMENT
OCT 13 2020

Signature: Joe Kouri

Address: 2714 BEAVER.

Reason for opposing or approving this request may be listed below:

CURRENT PLAN WOULD TAKE OUT THREE
PARKING SPACES IN FRONT OF MY STORE.
WOULD LIKE TO MAINTAIN SAME NUMBER OF
PARKING SPACES FOR ALL BUSINESS ON STRIP.