

Date April 19, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM VISITING NURSES OF IOWA D/B/A EVERYSTEP (OWNER) TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 900 56TH STREET

WHEREAS, on April 5, 2021, by Roll Call No. 21-0539, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on March 18, 2021, its members voted 7-3 in support of a motion to recommend **APPROVAL** of a request from Visiting Nurses of Iowa d/b/a/ EveryStep (Owner), represented by Lynn Michi (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 900 56th Street (“Property”) from Low Density Residential to Neighborhood Mixed Use to allow rezoning to ‘RX2’ Mixed Use District to allow expansion of the existing hospice use, which is defined as a “Group Living, Assisted Living Facility” use; and

WHEREAS, on April 5, 2021, by Roll Call No. 21-0539, it was duly resolved by the City Council that the request to amend PlanDSM and rezone the Property be set down for hearing on April 19, 2021 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 rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed PlanDSM 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 900 56th Street:

LOT “E” IN ASHWORTH OAKS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, EXCEPT THAT PART DEEDED TO THE STATE OF IOWA AND RECORDED IN BOOK 3279, PAGE 147 IN THE OFFICE OF THE POLK COUNTY RECORDER.

to ‘RX2’ Mixed Use District.

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

Date April 19, 2021

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the amendment to the PlanDSM future land use designation and rezoning of the Property to 'RX2' Mixed Use District, hereby overruled, and the hearing is closed.
2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the Property locally known as 900 56th Street to Neighborhood Mixed Use Node is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to 'RX2' 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
 Judy K. Parks-Kruse (21-2021-4.05)
 Assistant City Attorney (ZON2021-00016).

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

March 30, 2021

Date April 19, 2021
Agenda Item 37
Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their March 18, 2021 meeting, the following action was taken regarding a request from Visiting Nurses of Iowa dba EveryStep (owner) represented by Lynn Michi (officer) to rezone property located at 900 56th Street from “P2” Public, Civic and Institutional District to “RX2” Mixed Use District, to allow expansion the existing hospice use, which is defined as a “Group Living, Assisted Living Facility” use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 7-3 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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 “RX2” Mixed Use District be found in not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan land use designation of Low-Density Residential, Part B) **APPROVAL** of requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use and Part C) **APPROVAL** of the

request to rezoning the subject property from “P2” Public, Civic, and Institutional District to “RX2” Mixed-Use District. (ZON2021-00016)

Written Responses

1 in Favor

1 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed “RX2” Mixed Use District be found in not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan land use designation of Low-Density Residential.

Part B) Staff recommends approval of requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of the request to rezoning the subject property from “P2” Public, Civic, and Institutional District to “RX2” Mixed-Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The rezoning would allow expansion of the existing hospice use, which is defined as a “Group Living, Assisted Living Facility” use. This use is considered non-conforming in the current “P2” District. Any future construction must be in accordance with a site plan reviewed and approved by the City’s Development Services Department. A site plan has not been submitted for consideration at this time. The proposed “RX2” Mixed Use District would allow for review under the General Building Type or Civic Building Type requirements in Chapter 135, Section 135-2.7.
2. **Size of Site:** 2.5 acres.
3. **Existing Zoning (site):** “P2” Public, Civic and Institutional District.
4. **Existing Land Use (site):** Hospice use, which is defined as a “Group Living, Assisted Living Facility” use.
5. **Adjacent Land Use and Zoning:**
 - North** – “P1”; Use is a wooded waterway.
 - South** – “P1”; Use is the freeway (Interstate 235).
 - East** – “P1”; Uses are 56th Street and Waveland Golf Course.
 - West** – “P1”; Use is a wooded waterway.
6. **General Neighborhood/Area Land Uses:** The subject property located along the west side of 56th Street just to the north of the freeway (Interstate 235). The property is separated from any residential uses to the north and west by a wood waterway.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Waveland Woods Neighborhood, and within 250 feet of both the Waveland Park and Waterbury Neighborhoods. The neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on February 26, 2021 and by mailing of the Final Agenda on March 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed February 26, 2021 (20 days prior to the hearing) and March 8, 2021 (10 days prior to the hearing) to the neighborhood associations 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 on the date of the mailing. The Waveland Woods Neighborhood Association notices were mailed to Dan McCool, 933 63rd Street, Des Moines, IA 50312. The Waveland Park Neighborhood Association notices were mailed to Anna Mason, 1434 44th Street, Des Moines, IA 50311. The Waterbury Neighborhood Association notices were mailed to Martha Miller Johnson, 525 Country Club Blvd, Des Moines, IA 50312.

The applicant mailed the required neighborhood outreach letter to neighborhood associations and property owners within 250 feet of the site on February 23, 2021. They must submit a summary of that outreach to Staff three (3) days before the public hearing.

- 8. Relevant Zoning History:** The subject property was rezoned from “R1-60” One-Family Low-Density Residential District to “MX3” 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:** Low-Density Residential.
- 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 “Low-Density Residential”. Therefore, the requested rezoning to “RX2” Mixed-Use District requires the classification to be amended to Neighborhood Mixed Use.

Plan DSM describes the Neighborhood Mixed Use designation as follows:

Small scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood

and include small retail, offices, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development.

2. **Permitted Uses:** The “RX2” District is required in order for the existing hospice use to be expanded, since it is considered a “Group Living, Assisted Living Facility” use that is not permitted in the “P2” District. The proposed “RX1” District would allow for residential uses, as well as light commercial uses, such as office, restaurant, and limited retail (under 12,000 square feet).
3. **Planning and Design Ordinance:** Any construction must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The “RX2” Mixed Use District would allow for review under either the General Building Type or Civic Building Type requirements in Chapter 135, Section 135-2.7.
4. **Staff Rationale:** Staff believes that the proposed Neighborhood Mixed Use future land use designation and the “RX2” Mixed Use District are appropriate for this location. The property is located along 56th Street, at the intersection of the freeway. Any impacts of an expanded use or any other use allowed in the “RX2” District would be minimal since the property is surrounded by the freeway, a wooded ravine, and a public golf course.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Doug Saltsgaver 2413 Grand Ave, representing ERG stated the only reason they are rezoning this property due to the designation this property was given with the new zoning ordinance, which is not in compliance with the use of a hospice. The proposed improvements are to continue with the use of a hospice on this property.

Lynn Michl, Chief financial officer for Every Step stated they have no intention of changing the use of the property with most of the improvements on the interior. Exterior work will include the addition of a garage, enlargement of the deck and a permanent awning of the front of the building. They have been running hospice at this site for 26 years and hope to continue that for another 26 years. As stated previously, the only reason they are seeking a rezoning is the change of designation that came with the new zoning ordinance.

CHAIRPERSON OPENED THE PUBLIC HEARING

Jennifer Ebert 951 58th Street asked why are they seeking RX2, why not RX1 or leave it as P2. She is worried about what this property could become in the future if the hospice was to leave this location.

Doug Saltsgaver stated it is not their choice to rezone but is necessary with the proposed improvements. Any zoning change could have potential uses that neighbors don't agree with. There is a significant City owned green space between this property and the other private property. This is a very small piece of real estate and they will not be doing anything with the trees outside of their property. He believes nothing could be built on this property that is more intrusive than what is already there.

Greg Jones asked why RX2 and not RX1?

Doug Saltgaver stated they were given several different options from City staff and picked RX2 hoping there would be no objection to what they're doing.

Greg Jones asked City Staff what the difference was between RX1 and RX2?

Erik Lundy presented zoning district use table to the commission via zoom screen share for comparison of RX1 and RX2.

Mike Ludwig stated it would be a decision from the applicant to agree with reductions of uses in RX2 or a less intense zoning district with RX1.

Greg Jones asked why City Staff didn't restrict this to an assisted living facility, while not allowing any other uses?

Erik Lundy stated they could have but there wasn't much concern about uses in RX2 until they were contacted by a surrounding neighbor. If the commission is sensitive to the concerns, they could limit to that use if the owner agrees.

Mike Ludwig stated staff's suggestion was if at some point in the future it changed from an assisted living facility, there wouldn't be additional development on the property but maybe a change of use from the existing building. If the commission is concerned about the uses in RX2, they could make a motion to RX1 or limit the uses within RX2.

Lynn Michl stated the parking on this property is extremely limited and due to the topography of the property, there isn't a good way to increase the parking capacity.

Erik Lundy asked if they would agree to limiting the uses?

Lynn Michl stated he would need to seek advice from his experts as he isn't aware of how that would impact the property.

Erik Lundy stated the commission could recommend RX2 with the limitation to assisted living/hospice only or RX1 with allowed uses.

Lynn Michl stated the changed to RX1 would work for us but would need to meet with his group if the commission would decide to limit uses within RX1.

Mike Ludwig stated the commission can recommend a less intense zoning district but if they were to limit specific uses in any zoning district, that would require consent from the property owner.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Abby Chungath stated she doesn't see much difference from RX1 and RX2 from the neighbor's standpoint but the owner might find the difference in parking uses important. Should we be interested to see if the owner would agree to RX2 without commercial uses.

Mike Ludwig stated the primary difference would be the event center uses in the commercial category and whether or not place of worship or place of assembly is a permitted use.

Francis Boggus stated he is very familiar with this property and believes it's unrealistic to think this property would be used for anything else due to the parking restrictions. Based on that he would move staff recommendation.

COMMISSION ACTION:

Francis Boggus made a motion for approval of Part A) the proposed "RX2" Mixed Use District be found in not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan land use designation of Low-Density Residential, Part B) **APPROVAL** of requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use and Part C) **APPROVAL** of the request to rezoning the subject property from "P2" Public, Civic, and Institutional District to "RX2" Mixed-Use District.

Motion passed: 7-3

Respectfully submitted,



Erik Lundy, AICP
Senior City Planner

EML:tjh

Item: ZON2021-00016

Date: 3/17/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Lawrence Kirsner

Name: LAWRENCE KIRSNER

Address: 942-56th St.

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

MAR 22 2021

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

Item: ZON2021-00016 Date: 3-18-2021

Please mark one of the following

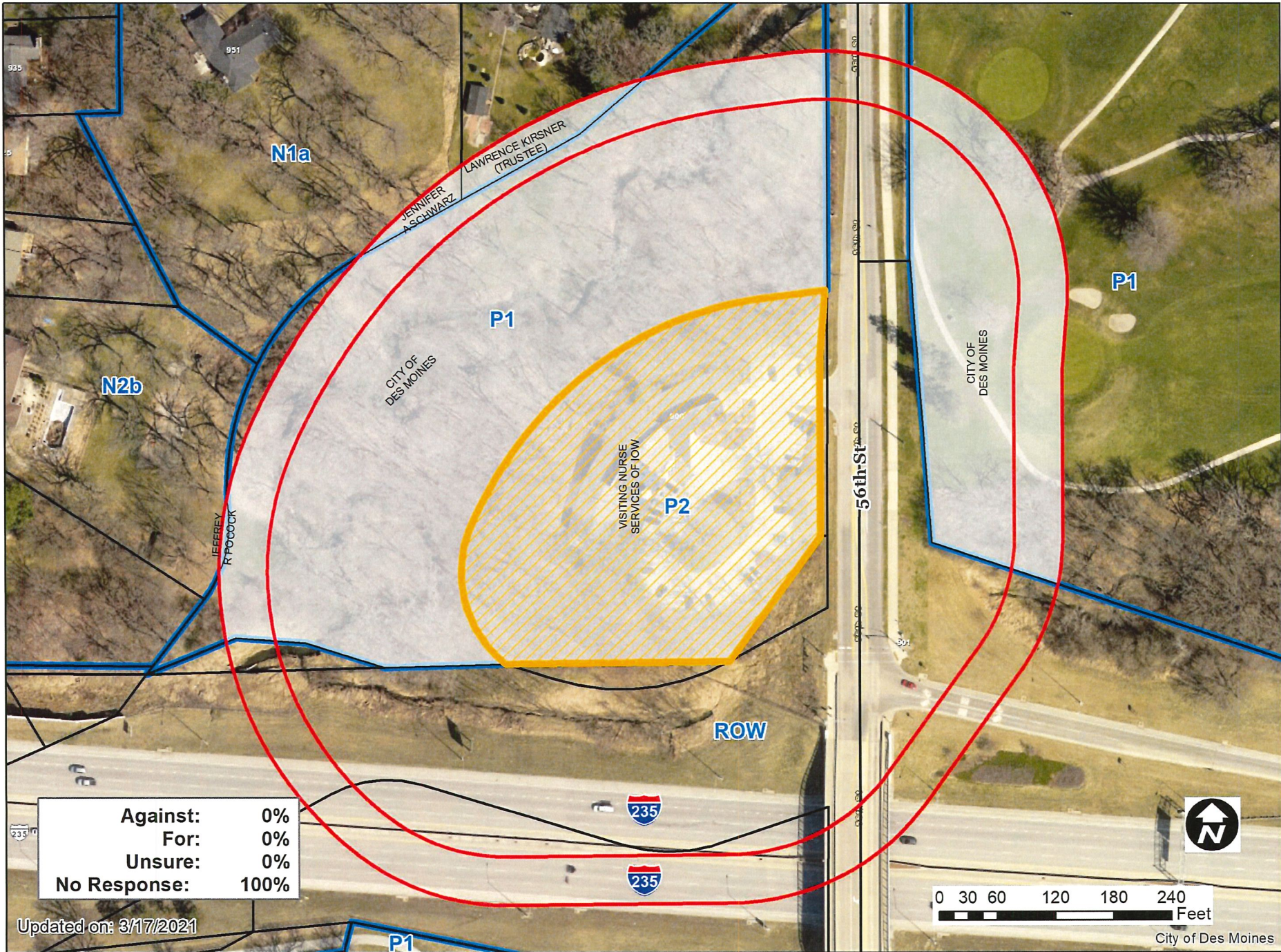
- I am in favor of the request
- I am not in favor of the request

Staff Use Only

Signature: [Handwritten Signature]
Name: Kenneth Ebert Schwartz
Address: 951 58th St

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

RXZ ZONE IS NOT APPROPRIATE
FOR NEIGHBORHOOD.



Updated on: 3/17/2021

City of Des Moines

1 inch = 132 feet