

Date April 19, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM HERNANDEZ HOLDINGS, LLC (OWNER) TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 1440 & 1444 CAPITOL AVENUE

WHEREAS, on April 5, 2021, by Roll Call No. 21-0540, 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 9-0-1 in support of a motion to recommend **APPROVAL** of a request from Hernandez Holdings, LLC (Owner), represented by Dawn Hernandez (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 1440 & 1444 Capitol Avenue (“Property”) from High-Density Residential within a Neighborhood Node to Community Mixed-Use within a Neighborhood Node to allow rezoning to Limited ‘RX1’ Mixed Use District to allow existing off-site parking to be used in conjunction with a Business or Professional Office use at 1451 East Grand Avenue and to rezone the Property from ‘NX3’ Neighborhood Mix District to Limited ‘RX1’ Mixed Use District, subject to the condition stated in the resolution, for the above-stated purpose. The subject property is owned by Reveiz, LLC represented by Dr. Eduardo Reveiz, M.D; and

WHEREAS, on April 5, 2021, by Roll Call No. 21-0540, 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 1440 & 1444 Capitol Avenue:

LOTS 4 AND 5, BLOCK 41 STEWART’S ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

to Limited ‘RX1’ Mixed Use District.



Roll Call Number

Agenda Item Number

38

Date April 19, 2021

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 amendment to the PlanDSM future land use designation and rezoning of the Property to Limited 'RX1' 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 1440 & 1444 Capitol Avenue to Community Mixed-Use within a Neighborhood Node is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to Limited 'RX1' 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 (21-2021-4.07)
 Assistant City Attorney (ZON2021-00019).

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 38
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 Hernandez Holdings, LLC (purchaser) represented by Dawn Hernandez (officer) to rezone property located at 1440 and 1444 Capitol Avenue from “NX3” Neighborhood Mix District to “RX1” Mixed Use District, to allow existing off-site parking to be used in conjunction with a Business or Professional Office use at 1451 East Grand Avenue. The subject property is owned by Reveiz, LLC represented by Dr. Eduardo Reveiz, M.D.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0-1 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 “RX1” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of High Density Residential within a Neighborhood Node, Part B) **APPROVAL** of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan

designation from High Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part B) **APPROVAL** of requested rezoning the subject property from “NX3” Neighborhood Mix District to “RX1” Mixed Use District subject to the only permitted uses are the uses permitted in common between the “NX1” and “RX1” Districts and accessory offsite parking for the use at 1451 East Grand Avenue. (ZON2021-00019)

Written Responses

1 in Favor
0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “RX1” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of High Density Residential within a Neighborhood Node.

Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from High Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.

Part B) Staff recommends approval of requested rezoning the subject property from “NX3” Neighborhood Mix District to “RX1” Mixed Use District subject to the only permitted uses are the uses permitted in common between the “NX1” and “RX1” Districts and accessory offsite parking for the use at 1451 East Grand Avenue.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. **Purpose of Request:** The applicant is seeking to reuse the existing building at 1451 East Grand Avenue as a Professional Office use for Law Offices. This property is zoned “RX1” Mixed Use District and allows that use. That property is being sold in conjunction with the subject property which is zoned “NX3” Neighborhood Mix District and is situated to the west and south of the adjacent east/west public alley. The subject property is paved for surface parking. The subject property paved parking was historically allowed to develop extending into a residential zoning district as a matter of right, being accessory to a former Drapery business directly north of the alley, now occupied by Iowa Prison Industries as a Retail Sales outlet use. The applicant indicates their intention to use the property only for off-site surface parking based on their projected number of employees to be housed at 1451 East Grand Avenue and based on the limited parking at that property being made available for clients.
- 2. **Size of Site:** 13,200 square feet.
- 3. **Existing Zoning (site):** “NX3” Neighborhood Mix District.
- 4. **Existing Land Use (site):** Vacant property developed with paved off-site parking.
- 5. **Adjacent Land Use and Zoning:**

North – “RX1”; Use is Limited Retail Sales (Iowa Prison Industries outlet).

South – “NX3”, Use is mixed densities of Household Living Use.

East – “NX3”; Uses are One Household Living use.

West – “NX3”; Uses are Multiple Household Living use.

6. **General Neighborhood/Area Land Uses:** The subject property located on a neighborhood street between the one-way pair of Southeast 14th and 15th Streets/U.S. Highway 69. It is in a transition area between the mixed-use East Grand Avenue corridor and mixed-densities of Household Living use to the south.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Capitol East Neighborhood. The neighborhood association was 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 Capitol East 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 on the date of the mailing. The Capitol East Neighborhood Association notices were mailed to Jack Leachman, 1921 Hubbell Ave, Des Moines, IA 50316.

8. **Relevant Zoning History:** The subject property was zoned to “NX3” Neighborhood Mix 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:** High Density Residential 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 “High Density Residential” within a Neighborhood Node. Plan DSM describes this designation as follows:

High Density Residential

Areas developed with primarily higher intensity multi-family housing with a minimum density over 17 dwelling units per net acre.

The requested amendment would be to the “Community Mixed Use” within a Neighborhood Node.

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.

Based on these designations, the proposed “RX1” Mixed Use District zoning would be found not in conformance with the Comprehensive Plan unless the requested amendment were to be approved. Staff believes the proposed rezoning is appropriate if it is limited, given the location of the subject property between high-volume transportation corridors and given that the subject property is in a transition between mixed use and mixed densities of residential use. The adjacent property to the north carries the same requested “Community Mixed Use” future land use designation and “RX1” Mixed Use District zoning. Also the property has previously been used as accessory offsite surface parking.

2. **Planning and Design Ordinance:** Any reuse of the offsite parking accessory to the change of use at 1451 East Grand Avenue will be required to comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. In this instance it mostly would involve fencing and landscaping material and some removal of paving for interior landscape islands. Offsite accessory parking for permitted uses at 1451 East Grand Avenue would be permitted on the property with the same zoning designation per Chapter 135 Section 135-6.6.4(C)(2).
3. **Staff Rationale:** Staff believes that the proposed future land use designation amendment and rezoning are appropriate so long as there would be conditions limiting the uses typically allowed in “RX1”. The existing property is developed and has been used for offsite parking historically. However, introduction of mixed use development would present impacts to the adjoining residential uses to the east and west. Therefore, staff recommends that uses of the subject property be limited to “NX3” Neighborhood Mix District permitted uses and offsite parking accessory to permitted use at 1451 East Grand Avenue.

SUMMARY OF DISCUSSION

Dory Briles stated the applicant for item #5 agrees with staff recommendations and could be considered under the consent portion of tonight’s agenda.

Emily Webb made a motion to move item #5 to the consent agenda.
Motion Carried 9-0-1 (Carolyn Jenson abstained from the vote).

COMMISSION ACTION:

Jann Freed made a motion for approval of Part A) the proposed rezoning to “RX1” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of High Density Residential within a Neighborhood Node, Part B) **APPROVAL** of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from High Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part B) **APPROVAL** of requested rezoning the subject property from “NX3” Neighborhood Mix District to “RX1” Mixed Use District subject to the only permitted uses are the uses permitted in common between the “NX1” and “RX1” Districts and accessory offsite parking for the use at 1451 East Grand Avenue.

Motion passed: 9-0-1 (Carolyn Jenison abstained from the vote)

Respectfully submitted,



Erik Lundy, AICP
Senior City Planner

EML:tjh

Item: ZON2021-00019

Date: 3/12/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Jack Leachman

Name: _____

JACK LEACHMAN

Address: _____

1921-Hubbell Ave

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

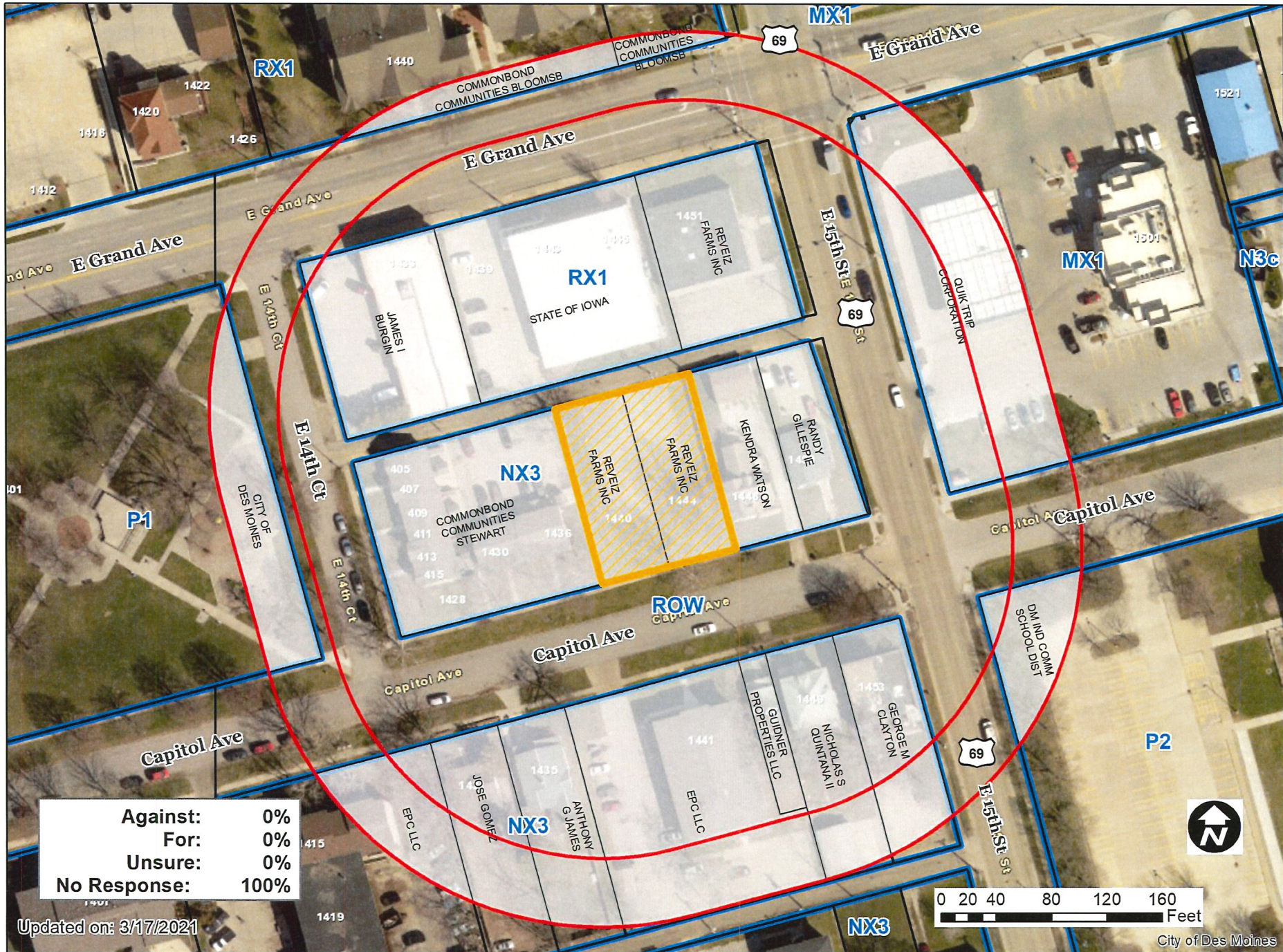
MAR 16 2021

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

Instead of a empty Building
WE NOW HAVE A LAWYER IN
THE NEIGHBORHOOD

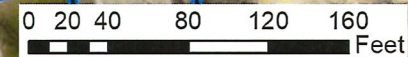
Hernandez Holdings, LLC, 1440 and 1444 Capitol Avenue

ZON2021-00019



Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 3/17/2021



City of Des Moines

1 inch = 93 feet