

Agenda Item Number

Date June 27, 2022

RESOLUTION SETTING PUBLIC HEARING REGARDING REQUEST FROM FORGET PROPERTIES II, LLC (OWNER), REPRESENTED BY NORM FORGET (OFFICER), FOR PROPERTY LOCATED AT 4230 FLEUR DRIVE, TO REZONE THE PROPERTY FROM "MX2" MIXED-USE DISTRICT TO "MX3" MIXED USE DISTRICT, TO ALLOW DEVELOPMENT OF A DRIVE-THROUGH FOR A RESTAURANT USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 16, 2022, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Forget Properties II, LLC (owner), represented by Norm Forget (officer), for property located at 4230 Fleur Drive, to rezone the property from "MX2" mixed-use district to "MX3" mixed use district, to allow development of a drive-through for a restaurant use and determined the requested rezoning is in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan; and

WHEREAS, the Property is legally described as follows:

Lot Two (2) and the North 7 feet of Lots Three (3) and Four (4) in AIRLANE COURT, an Official Plat; and the North 147 feet of the South 320 feet of the West 40 feet of the East 515 feet of the South 15 Acres of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 20, Township 78 North, Range 24, West of the 5th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa, and

The South 140 feet of Lots Three (3) and Four (4) in AIRLANE COURT, an Official Plat; and the North 8 feet of the South 33 feet of the East 475 feet (except the East 40 feet) of the South 15 Acres of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 20, Township 78 North, Range 24, West of the 5th P.M., now included in and forming a part of the City of Des Moines, Iowa.

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

- 1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
- 2. That the meeting of the City Council at which the proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposals, shall be held at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on July 18, 2022, at which time the City Council will hear both those who oppose and those who favor the proposals.
- 3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the



Date June 27, 2022

Iowa Code.

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Lisa A. Wieland Lisa A. Wieland Assistant City Attorney

(ZONG-2022-000052)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT	CERTIFICATE				
COWNIE									
BOESEN					I, LAURA BAUMGARTNER, Acting City Clerk of				
GATTO					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.				
SHEUMAKER									
MANDELBAUM									
VOSS					IN MUTNESS MUEBEOF I have been to act more				
WESTERGAARD					IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first				
TOTAL					above written.				
MOTION CARRIED			API	PROVED					
			I	Mayor	Acting City Clerk				

Agenda Item Number



June 22, 2022

Communication from the City Plan and Zoning Commission advising that at their June 16, 2022 meeting, the following action was taken regarding a request from Forget Properties II, LLC (owner), represented by Norm Forget (officer) to rezone property located at 4230 Fleur Drive from "MX2" Mixed-Use District to "MX3" Mixed Use District, to allow development a drive-through for a Restaurant use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	Х			
Dan Drendel				Х
Leah Rudolphi	Х			
Dory Briles	Х			
Abby Chungath	Х			
Kayla Berkson	Х			
Chris Draper	Х			
Todd Garner	Х			
Johnny Alcivar	Х			
Justyn Lewis	Х			
Carolyn Jenison	Х			
William Page				Х
Andrew Lorentzen	Х			
Emily Webb	Х			

APPROVAL of Part A) The proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) Approval of the request to rezone the property from "MX2" Mixed Use District to "MX3" Mixed Use District, to allow development of a Restaurant with a drive-through use.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) Staff recommends approval of the request to rezone the property from "MX2" Mixed Use District to "MX3" Mixed Use District, to allow development of a Restaurant with a drive-through use.

Written Responses 1 in Favor 0 in opposition

STAFF REPORT TO THE PLANNING COMMISSION

- I. GENERAL INFORMATION
- Purpose of Request: The applicant is proposing to convert the north tenant bay of the building addressed as 4226 Fleur Drive from a dry cleaner use to a coffee shop (restaurant) use with an accessory drive-through facility. The Planning and Design Ordinance (City Code Chapter 135) does not allow drive-through facilities within the "MX2" District. Therefore, the applicant is requesting to rezone the parcel to "MX3" District.
- 2. Size of Site: 63,910 square feet (1.47 acres).
- 3. Existing Zoning (site): "MX2" Mixed Use District.
- **4. Existing Land Use (site):** The site contains two one-story commercial buildings with multiple tenants, as well as a parking lot.
- 5. Adjacent Land Use and Zoning:

North – "MX2"; Uses are commercial in nature.

South – "MX2" and NX2; Uses are commercial, apartments, and Stanton Avenue rightof-way.

East – "MX2"; Uses are commercial and Fleur Drive right-of-way.

West – "MX2"; Uses are parking area for the shopping complex.

- 6. General Neighborhood/Area Land Uses: The subject property is located at the intersection of Fleur Drive and Stanton Avenue. The surrounding area contains a mix of commercial and multiple household residential uses.
- 7. Applicable Recognized Neighborhood(s): The subject property is located in the Southwestern Hills Neighborhood and within 250 feet of Watrous South Neighborhood. All recognized neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on May 27, 2022 and by mailing of the Final Agenda on June 10, 2022. Additionally, separate notifications of the hearing for this specific item were

mailed on May 27, 2022 (20 days prior to the public hearing) and June 6, 2022 (10 days prior to the public hearing) to the Southwestern Hills and Watrous South 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 Neighborhood Development Division on the date of the mailing. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321. The Watrous South Neighborhood mailings were sent to Mitch Harris, 360 Bridgewood Drive, #1102, West Des Moines, IA 50266.

The applicant will provide a summary of the neighborhood meeting at the public hearing.

- 8. Relevant Zoning History: N/A.
- **9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Community 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 as "Community Mixed Use" and located in a "Community Node" on the Future Land Use Map. Plan DSM describes these designations as follows:

<u>Community Mixed Use</u>: 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.

<u>Community Node</u>: Mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

The applicant is proposing to rezone the property from "MX2" District to "MX3" District. The Zoning Ordinance states that the "MX2" District is "intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking." Building types allowed in this district include Storefront, Civic Building, and Principal Use Parking Structure.

The Zoning Ordinance states that the "MX3" District 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 Storefront, Commercial Cottage, General Building, Commercial Center, Civic Building and Principal Use Parking Structure.

Staff believes that the proposed coffee shop with an accessory drive through use is appropriate for the character of the area and complimentary to the other mix of predominantly automobile oriented commercial uses along the corridor.

2. Planning and Design Ordinance: Any construction must comply with all applicable site plan and design regulations of the Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review in order for the drive-through facility can be constructed.

SUMMARY OF DISCUSSION

<u>Emily Webb</u> asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jension made a motion for:

Part A) The proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use" within a "Community Node."

Part B) Approval of the request to rezone the property from "MX2" Mixed Use District to "MX3" Mixed Use District, to allow development of a Restaurant with a drive-through use.

Motion passed: 12-0

Respectfully submitted,

Jula Con

Jason Van Essen, AICP Planning & Urban Design Administrator

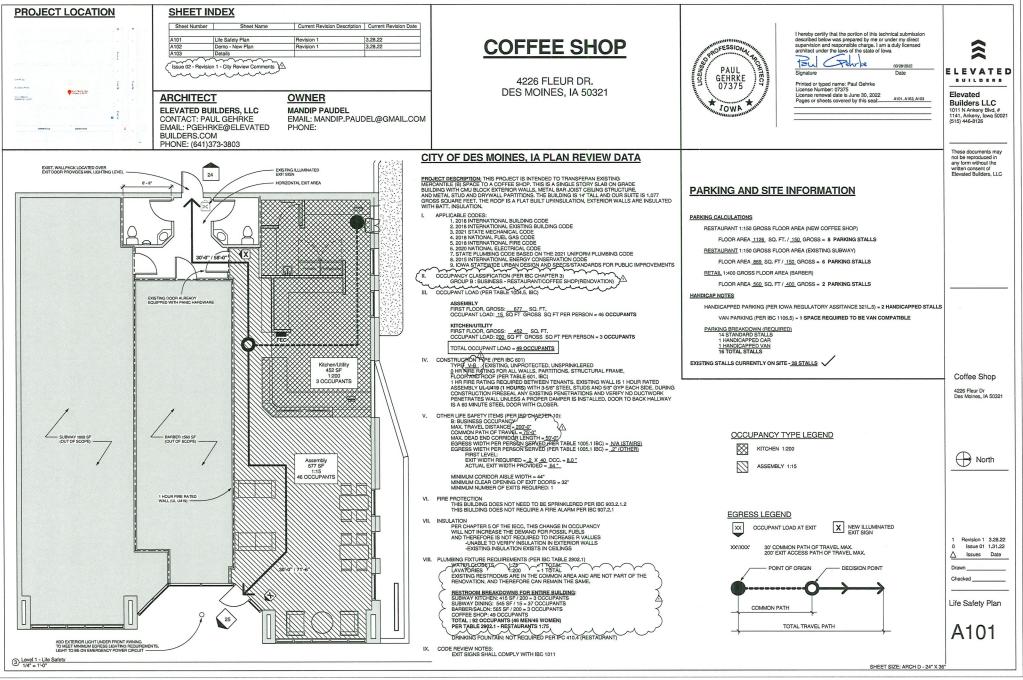
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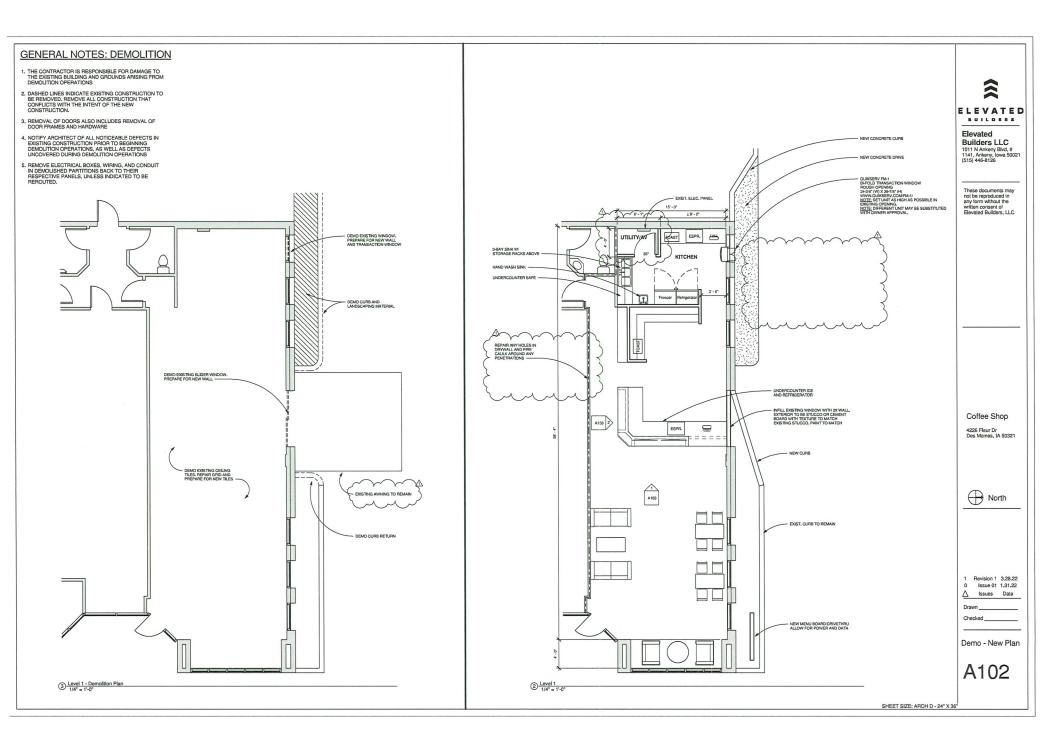
Forget Properties II, LLC, 4226, 4228, 4230 Fleur Drive

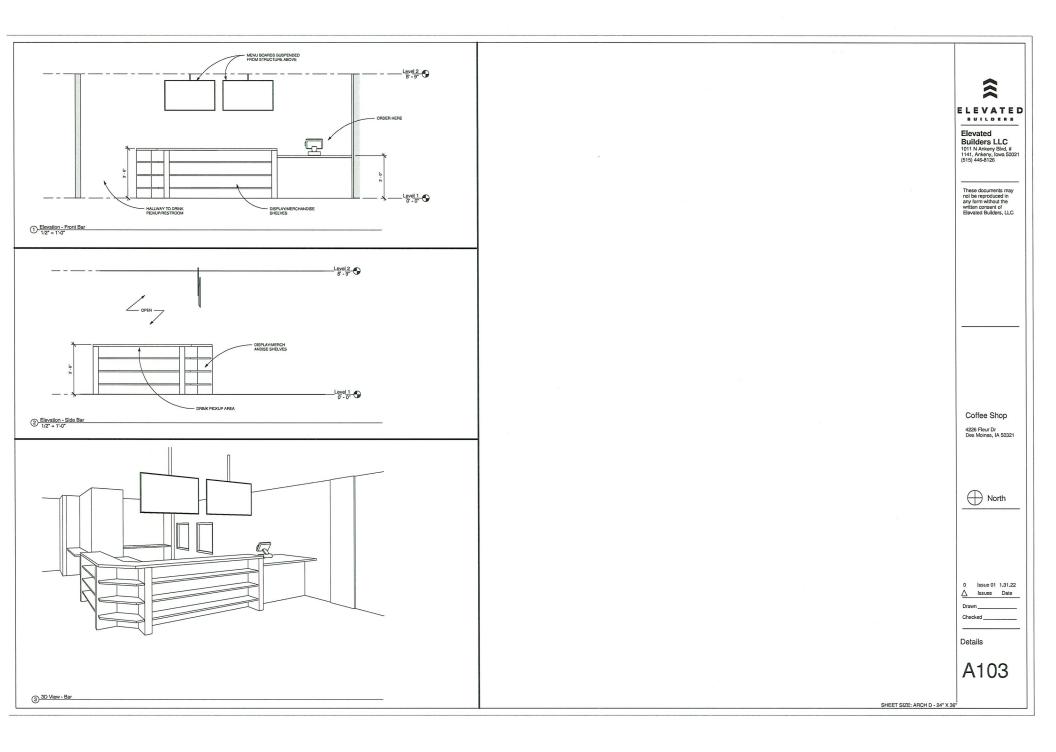
ZONG-2022-000052











From:Deep PaudelTo:Neighborhood MeetingSubject:Fleur Drive Coffee Shop Neighbor Meeting SummaryDate:Monday, June 13, 2022 8:10:11 PMAttachments:image002.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello

I am not sure what to write and how the summary should be written about this meeting. No one showed up for the meeting. Below is my attempt at the summary:

The meeting was held on June 9th, 2020 @ 10 AM at 4226 Fleur Dr, DSM 50321.

- 1. An invitation letter was mailed to all the list of addresses that were provided by the city. Please see the attached document.
- 2. There were only two of us who were present at the meeting. The owner Norm Forge and me.
- **3**. No suggestions of concerns.
- 4. No changes or anything was considered.

Attached is the picture of the letters that were mailed out.

Thank you

Kind regards,

Deep Paudel

Multi-Unit Operator - Des Moines Metro PO Box 35812 | Des Moines IA 50315 (c) 563-209-7884

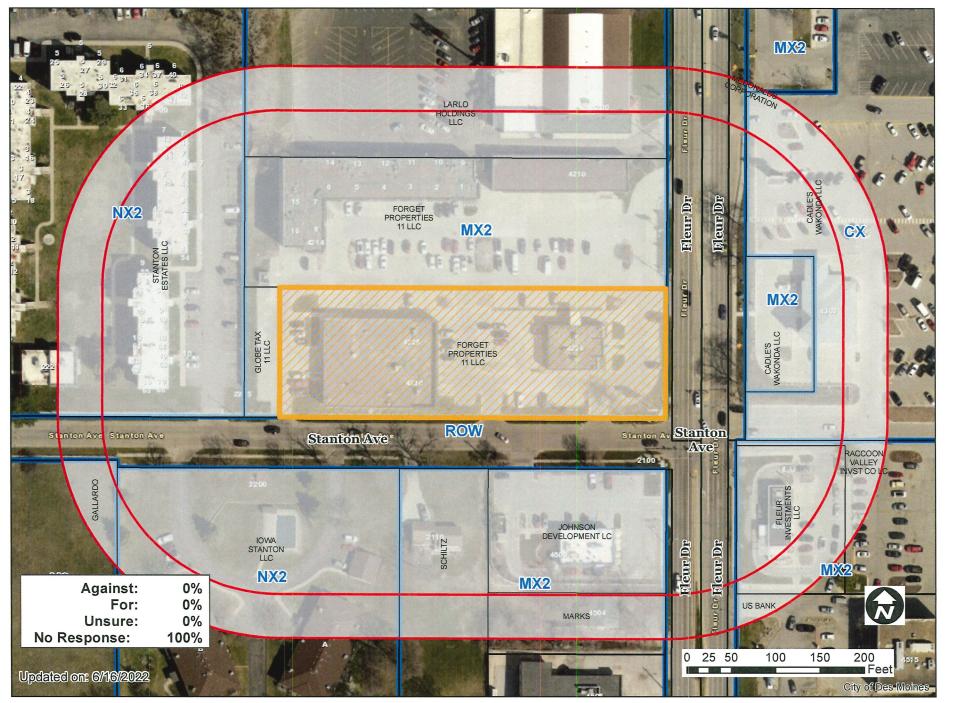
SUBWAY*

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	ate:						
Please mark one of the following							
Lam in favor of the request	Staff Use Only						
I am not in favor of the request	RECEIVED						
1	COMMUNITY DEVELOPMENT						
Signature:	JUN 1 3 2022						
Name: George Darts							
Address: 3124 SW 29Th							
Reason for opposing or approving this request may be listed below:							
Suparts This.							

Forget Properties II, LLC, 4230 Fleur Drive

ZONG-2022-000052





Forget Properties II, LLC, 4226, 4228, 4230 Fleur Drive

ZONG-2022-000052

1 inch = 104 feet