



Roll Call Number

20-0673

Agenda Item Number

44 ✓

Date April 20, 2020

RESOLUTION HOLDING HEARING ON REQUESTS FROM WHITE WILLOW EVENTS TO AMEND THE EXISTING PLAN DSM: CREATING OUR TOMORROW PLAN FUTURE LAND USE DESIGNATION AND REZONE PROPERTY LOCATED AT 6011 AND 6015 GRAND AVENUE

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan; and

WHEREAS, on March 9, 2020, by Roll Call No. 20-0422, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 20, 2020, the City Plan and Zoning Commission voted 7-1 in support of a motion to recommend APPROVAL of a request by White Willow Events (purchaser), represented by Taylor Boesen (officer), to amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation for real property locally known as 6011 and 6015 Grand Avenue (collectively "Property") from Parks and Open Space, Development Control, and Low Density Residential to Community Mixed Use, to allow for rezoning to MX1 Mixed Use District;

WHEREAS, on March 9, 2020, by Roll Call No. 20-0422, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 20, 2020, its members voted 7-1 in support of a motion to recommend APPROVAL of a request from White Willow Events to rezone the Property from RX1 Mixed Use District to MX1 Mixed Use District, to allow demolition of the existing buildings and redevelopment with a 2-story, 7,000-square foot building for an Assembly and Entertainment, Small use as an events center, subject to the following conditions:

- 1. Any entertainment assembly use permitted shall provide parking at 100% of the calculated requirement in Chapter 135 of the City Code for such use with any approved site plan; and
2. Any business holding a liquor license and/or beer or wine permit shall be prohibited, which is not operated as either:
a. An Eating or Drinking Place, Restaurant use, at least half of whose gross income is derived from the sale of prepared food and food-related services; or
b. An Assembly and Entertainment, Small use, that occupies no more than 7,000 square feet of gross floor area for assembly that is operated in compliance with an Approved Conditional Use including, but not limited to, hours of operation, sales requirements, and parking arrangements; and

WHEREAS, on March 9, 2020, by Roll Call No. 20-0422, it was duly resolved by the City Council that the request to rezone the Property and for approval of the proposed comprehensive plan amendment, be set down for hearing on March 23, 2020 at 5:00 P.M., in the Council Chamber at City Hall; and



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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 amendment to the Zoning Ordinance and comprehensive plan; and

WHEREAS, on March 23, 2020, by Roll Call No. 20-0585, it was duly resolved by the City Council that the time and place for the hearing on said proposed amendment to Zoning Ordinance be continued to April 20, 2020, at 5: 00 p.m., to be held in the Second Floor Board Room in the Richard A. Clark Municipal Services Center at 1551 East Martin Luther King Jr. Parkway; and

WHEREAS, in accordance with said notice, those interested in said proposed comprehensive plan amendment and rezoning and, 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 6011 and 6015 Grand Avenue, legally described as:

A PARCEL OF LAND IN LOTS 25, 26, 27, 28, 36, 37, 38, 39, 40, 41, 42, & LOT 'F', GRAND AVENUE WATERBURY, AN OFFICIAL PLAT RECORDED IN BOOK 'J', PAGE 103 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF LOT 36, OF SAID GRAND AVENUE WATERBURY, THENCE S89°55'50"E, 147.29 FEET TO A POINT; THENCE S00°06'11"E, 165.18 FEET TO A POINT; THENCE N89°52'14"E, 44.19 FEET TO A POINT; THENCE S00°06'55"E, 59.89 FEET TO A POINT; THENCE S89°59'51"E, 104.00 FEET TO A POINT; THENCE S00°06'55"E, 113.24 FEET TO A POINT; THENCE S53°06'27"W, 4.99 FEET TO A POINT; THENCE N89°58'15"W, 288.40 FEET TO A POINT; THENCE N53°05'42"W, 5.00 FEET TO A POINT; THENCE N00°02'46"E, 338.24 FEET TO THE POINT OF BEGINNING WITH ALL CONTAINNING 1.61 ACRES MORE OF LESS.

EXCEPT

BEGINNING AT THE NW CORNER OF SAID LOT 36; THENCE S89°55'50"E, 53.79 FEET TO A POINT; THENCE S70°24'21"E, 35.17 FEET TO A POINT; THENCE S39°42'13"E, 24.39 FEET TO A POINT; S78°29'52"E, 11.60 FEET TO A POINT; THENCE S05°31'17"E, 68.31 FEET TO A POINT; THENCE S48°08'43"E, 36.34 FEET TO A POINT; THENCE S00°06'11"E, 34.96 FEET TO A POINT; THENCE N78°32'29"W, 13.54 FEET TO A POINT; THENCE N47°44'55"W, 31.28 FEET TO A POINT; THENCE S65°31'18"W, 16.28 FEET TO A POINT; THENCE S02°48'29"W, 28.00 FEET TO A POINT; THENCE S18°33'20"E, 26.17 FEET TO A POINT; THENCE S84°51'11"E, 10.31 FEET TO A POINT; THENCE N64°38'21"E, 18.97 FEET TO A POINT; THENCE S47°56'46"E, 17.86 FEET TO A POINT; THENCE S16°27'07"E, 11.67 FEET TO A POINT; THENCE S63°11'34"W, 14.76 FEET TO A POINT; THENCE



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S32°00'59"W, 14.30 FEET TO A POINT; THENCE S16°56'25"E, 25.94 FEET TO A POINT; THENCE N70°01'42"E, 16.50 FEET TO A POINT; THENCE S41°24'45"E, 9.66 FEET TO A POINT; THENCE S05°28'38"E, 18.25 FEET TO A POINT; THENCE S03°23'05"W, 21.59 FEET TO A POINT; THENCE S49°43'57"W, 30.20 FEET TO A POINT; THENCE S59°23'59"W, 20.14 FEET TO A POINT; THENCE S88°12'58"W, 23.73 FEET TO A POINT; THENCE S20°02'34"E, 9.46 FEET TO A POINT; THENCE N89°58'15"W, 92.33 FEET TO A POINT; THENCE N53°05'42"W, 5.00 FEET TO A POINT; THENCE N00°02'46"E, 338.24 FEET TO THE POINT OF BEGINNING WITH ALL CONTAINING 0.98 ACRES MORE OR LESS.

from RX1 Mixed Use District to MX1 Mixed Use District, to allow demolition of the existing buildings and redevelopment with a 2-story, 7,000-square foot building for Assembly and Entertainment, Small use as an events center.

WHEREAS, alternative conditions limiting the use of the Property have been agreed to in writing by the Contract Purchaser and owners of the property, to run with the land and be binding upon all owners, successors, heirs and assigns as part of the ordinance so rezoning the Property as follows:

- (a) Any assembly of persons shall be limited to 300 persons or less at one time; and
- (b) The assembly uses allowed at the Property shall be limited to events, such as, wedding ceremonies and receptions, celebrations of life, graduation receptions, baby showers, engagement parties, anniversary celebrations, birthday parties, reunions, fundraisers, charity events, galas, silent and live auctions, corporate events, holiday parties, neighborhood meetings and gatherings, chamber events, festivals, cultural celebrations, food and beverage tastings, pop-up food and beverage events, community engagement events, cooking classes, religious ceremonies and services, political events, speaking engagements, business meetings, networking sessions, team building events, workshops, conferences, school dances, trivia night, fraternity and sorority socials, art shows, exhibitions, performance art, guided dance, yoga and meditation, television, movie and sports screenings, book club meetings, book and poetry readings, music recitals, and similar events. Live music shall be permitted to accompany the assembly uses allowed on the Property, but concerts where live music performed for profit is the main event shall not be permitted; and
- (c) The hours of operation shall be limited as follows:
 Sunday through Thursday: 8:00 a.m. – 10:00 p.m., and
 Friday and Saturday: 8:00 a.m. – midnight.

Notwithstanding the foregoing, the hours of operation for Public Holidays (defined below) and the day preceding Public Holidays shall be limited as follows:
8:00 a.m. – midnight.



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“Public Holiday” as used herein includes: New Year’s Day, Birthday of Martin Luther King Jr., Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Veterans Day (November 11), Thanksgiving (the fourth Thursday in November), and Christmas Day (December 25).

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 amendment to the PlanDSM: Creating Our Tomorrow Plan future land use designation for 6011 and 6015 Grand Avenue, or the proposed rezoning of the Property to MX1 Mixed Use District, subject to the conditions stated above, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by _____ to adopt and DENY the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning:

- a. That the City Clerk received and filed a signed protest from owners of 20% or more of the property located within 200 feet of the exterior boundaries of the area included in the proposed zoning map amendment area, at or before the City Council hearing on the proposed zoning map amendment.
- b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Parks and Open Space, Development Control, and Low Density Residential, is not in conformance with the proposed Community Mixed Use of the Property as stated above.

If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by Mandelbaum to adopt and APPROVE the proposed rezoning, subject to the conditions stated above, and to make the following findings of fact regarding the proposed rezoning:

- a. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the property locally known as 6011 and 6015 Grand Avenue, from Parks and Open Space, Development Control, and Low Density Residential is in conformance with the proposed Community Mixed Use of the Property, as stated above.



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b. The proposed rezoning of the Property, as legally described above, to MX1 Mixed Use District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan, any objections to the proposed rezoning of the Property to Limited MX1 Mixed Use District, with conditions as set forth above, are hereby overruled, subject to final passage of an ordinance rezoning the Property subject to conditions set forth above as set forth herein.

FORM APPROVED:

Judy K. Parks-Kruse

Judy K. Parks-Kruse, Assistant City Attorney

(21-2020-4.01)
(ZON2020-00005)

*Council Member Boesen abstains from voting based on an appearance of a conflict of interest.

NOTE: Affirmative votes of three-fourths of the council members who are not disqualified by reason of a conflict of interest are required to approve the proposed rezoning due to the Protest filed by 20% or more of the Property Owners located within 200 feet of the exterior boundaries of the area included within the proposed zoning map amendment area. Des Moines City Code §134-6.3.10 & Iowa Code §362.6.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL. Includes signature of J. M. Franklin Cownie, 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.
Signature of P. Kay Cmelik, City Clerk