



**Roll Call Number**

21-1692

**Agenda Item Number**

49

**Date** November 1, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM SMOKERS GENIE II, LLC  
TO REZONE PROPERTY LOCATED AT 3733 EASTON BOULEVARD**

**WHEREAS**, Smokers Genie II, LLC (owner), represented by Kuljit Chauhan (officer), requested to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 3733 Easton Boulevard (“Property”), and to rezone the Property from MX1 Mixed Use District to MX3 Mixed Use District, to allow reuse of the Property for a fuel station use and to allow conditional use consideration by the Zoning Board of Adjustment for the sale of alcoholic liquor, wine, beer and/or tobacco products; and

**WHEREAS**, on October 18, 2021, by Roll Call No. 21-1554, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 7, 2021 regarding said request from Smokers Genie II, LLC, the Commission members voted 9-1 in support of a motion to recommend **APPROVAL** to rezone the Property from MX1 Mixed Use District to MX2 Mixed Use District to allow reuse of the Property for a fuel station use and to allow conditional use consideration by the Zoning Board of Adjustment for the sale of wine, beer and/or tobacco sales, which MX2 district was found to be in conformance with the PlanDSM future land use designation with no amendment required thereto, and which proposed rezoning to MX2 Mixed Use District rather than MX3 Mixed Use District has been agreed to by Smokers Genie II, LLC; and

**WHEREAS**, on October 18, 2021, by Roll Call No. 21-1554, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on November 1, 2021, at 5:00 p.m., in the City Council Chambers; 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 rezoning; 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 3733 Easton Boulevard, legally described as:

Part of Lot 2 of the Official Plat of the N1/2 of the NE1/4 of the NE1/4 of Section 32, Township 79 North, Range 23 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Iowa, more specifically described as follows, to-wit:

Commencing at a point 36.7 feet South of the Northeast corner of said Section 32 said point being the Northeast corner of said Lot 2; Thence South along the East line of said Section (being the East line of said Lot 2 and the West line of East 38th Street as now located) 165 feet; Thence West 120 feet; Thence North 106.45 feet to the North line of said Lot 2 (being the South line of Easton Boulevard); Thence North 63 degrees 57 minutes East 133.51 feet along the North line of said Lot 2 (being the South line of Easton Boulevard) to the point of beginning, Polk County, Iowa.

**EXCEPT** a tract described as follows: Part of Lot 2, of the Official Plat of the N1/2 of the NE1/4 of the NE1/4 of Section 32, Township 79 North, Range 23 West of the 5th P.M., more particularly described as follows:

Beginning at the Northeast corner of said Lot 2; Thence South 0 degrees 00 minutes 00 seconds East (assumed), along the East line of said Lot 2, 165.09 feet to a found 1/2" iron rod; Thence North 89 degrees 51 minutes 24 seconds West, 20.00 feet; Thence North 0 degrees 00 minutes 00 seconds East, 150.30 feet; Thence North 57 degrees 58 minutes 18 seconds West, 5.30 feet to the North line of said Lot 2; Thence North 64 degrees 01 minute 25 seconds East along said North line, 27.25 feet to the point of beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa



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from MX1 Mixed Use District to MX2 Mixed Use District to allow reuse of the Property for a fuel station use and to allow conditional use consideration by the Zoning Board of Adjustment for the sale of wine, beer and/or tobacco sales; and

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

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 MX2 Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to MX2 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 Westergaard TO ADOPT.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZONG2021-000027)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

Linda Westergaard Mayor
MAYOR PRO TEM

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.

P. Kay Cmelik City Clerk