

★ **Roll Call Number**
23-0256

Agenda Item Number
48

Date February 20, 2023

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM LDS ENTERPRISES, LLC (OWNER) REPRESENTED BY LARRY D. SPRAGUE (OFFICER) FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4415 HUBBELL AVENUE, TO CONFIRM REQUESTED REZONING IS IN CONFORMANCE WITH PLANDSM CREATING OUR TOMORROW PLAN, AND TO REZONE THE PROPERTY FROM “MX3” MIXED USE DISTRICT TO LIMITED “CX” MIXED USE DISTRICT TO ALLOW THE USE OF THE PROPERTY FOR AUTO BODY PAINTING

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on January 19, 2023, its members voted 9-5 in support of a motion to recommend **APPROVAL** of a request from LDS Enterprises, LLC (Owner), represented by Larry D. Sprague (Officer), for the proposed rezoning from “MX3” Mixed-Use District to Limited ‘CX’ Mixed-Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Community Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on January 19, 2023, its members voted 9-5 in support of a motion to recommend **APPROVAL** of a request from LDS Enterprises, LLC (Owner) represented by Larry D. Sprague (Officer), for property located at 4415 Hubbell Avenue, to rezone the “MX3” Mixed-Use District to Limited “CX” Mixed-Use District, to allow the use of the property for auto body painting, subject to the following conditions:

1. Use restricted shall be limited to the following:
 - a. Any use as permitted and limited in “MX3” Mixed-Use District.
 - b. An auto painting use that is fully contained within a building.
2. Prohibition of outdoor storage, pavement or parking within the rear yard.

WHEREAS, the Property is legally described as follows:

LOT 5 IN CAPITOL HEIGHTS, NO. 2, EXCEPT THE NORTHWEST 2.0 FEET (LYING ADJACENT TO AN PARALLEL TO THE SOUTH RIGHT OF WAY LINE OF AVENUE FREDERICK M. HUBBELL), AN OFFICIAL PLAT, IN POLK COUNTY, IOWA.

WHEREAS, on February 6, 2023, by Roll Call No. 23-0155, it was duly resolved by the City Council that the request for approval of the rezoning be set down for hearing on February 20, 2023, at 5:00 p.m., at 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 proposals; and

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

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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 and rezoning are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, from "MX3" Mixed-Use District to Limited "CX" Mixed-Use District, to allow the use for auto body painting, subject to the conditions set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Westergaard TO ADOPT. SECOND BY Boesen.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney

(ZONG-2022-000103)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
SHEUMAKER	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED				
			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

J.M. Franke Cownie Mayor

Laura Baumgartner City Clerk