

★ **Roll Call Number**
23-1493

Agenda Item Number
71

Date October 23, 2023

HOLD PUBLIC HEARING ON REQUEST FROM BREW OIL, LLC (OWNER), REPRESENTED BY RUPINDER KAUR (OFFICER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED AT 4140 PARK AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 21, 2023, its members voted 8-0 in support of a motion to recommend **DENIAL** of a request from Brew Oil, LLC (owner), represented by Rupinder Kaur (officer), for the proposed rezoning for Property located at 4140 Park Avenue from “RX1” Mixed Use District to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use; and to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Neighborhood Mixed Use to Community Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on September 21, 2023, its members voted 8-0 in support of a motion to recommend **DENIAL** of a request from Brew Oil, LLC (owner), represented by Rupinder Kaur (officer), to rezone the Property from “RX1” Mixed Use District to “MX3” Mixed Use District, to allow the redevelopment of an existing building as a convenience store with liquor sales; and

WHEREAS, the Property is legally described as follows:

THE NORTH 200 FEET OF THE WEST 173 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 19, TOWNSHIP 78 NORTH, RANGE 24, WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT LEGALLY ESTABLISHED HIGHWAYS.; and

WHEREAS, on October 2, 2023, by Roll Call No. 23-1322, it was duly resolved by the City Council that the request for approval of the proposed amendment and zoning be set down for hearing on October 23, 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.

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

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hearing is closed.

Alternative A

MOVED by _____ to DENY the proposed amendment and rezoning.
 Second by _____

Alternative B

MOVED by Mandelbaum to continue the public hearing until November 6, 2023, at 5:00 p.m. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and to direct the City Manager and Legal Department to prepare the necessary legislation to **APPROVE** the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Neighborhood Mixed Use to Community Mixed Use and the requested rezoning for Property "RX1" Mixed Use District to "MX3" Mixed Use District, to allow the redevelopment of an existing building as a convenience store with liquor sales, and determining the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan. Second by Voss

(NOTE – FINAL ORDINANCE APPROVAL WILL REQUIRE SIX VOTES DUE TO THE PLAN & ZONING COMMISSION RECOMMENDING DENIAL)

FORM APPROVED:

/s/ Chas M. Cahill
 Chas M. Cahill
 Assistant City Attorney

(ZONG-2023-000052) (COMP-2023-000029)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			

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. Frankin Cownie Mayor

Laura Baumgartner City Clerk