

Date November 15, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM WESLEY LIFE
TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO
REZONE PROPERTY LOCATED AT 3206 UNIVERSITY AVENUE,
1117 33RD STREET AND 1119 33RD STREET**

WHEREAS, on November 1, 2021, by Roll Call No. 21- 1659, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 18, 2021, its members voted 8-0-1 in support of a motion to recommend **APPROVAL** of a request from Wesley Life (owner), represented by Craig Flanagan (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 3206 University Avenue, 1117 33rd Street and 1119 33rd Street (“Property”) from Low Density Residential and Low-Medium Density Residential to Community Mixed use, to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street; and

WHEREAS, on November 1, 2021, by Roll Call No. 21-1659, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on October 18, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Wesley Life (owner), represented by Craig Flanagan (officer), to rezone Property from ‘P2’ Public, Civic and Institutional District and ‘N5’ Neighborhood District to Limited ‘MX3’ Mixed Use District for the above-stated purpose, subject to the following conditions:

1. No driveway, ingress-egress, or access to 33rd Street shall be allowed; and
2. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be set back an equal distance as the residential home from the street side property line; and

WHEREAS, on November 1, 2021, by Roll Call No. 21-1659, it was duly resolved by the City Council that the request to amend the land use designation and to rezone the Property be set down for hearing on November 15, 2021, 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 proposed land use amendment and 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 3206 University Avenue, 1117 33rd Street and 1119 33rd Street, legally described as:

Area Currently in “P2” district

THE EAST HALF OF LOT 3 IN LYON'S PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, TOGETHER WITH THE EASEMENT GRANTED BY THE CITY OF DES MOINES TO THE GRANTOR DATED MARCH 6, 1987 AND RECORDED IN BOOK 5693 PAGE 210 POLK COUNTY, IOWA RECORDER'S OFFICE.
AND



Date November 15, 2021

THE EAST 75 FEET OF THE SOUTH 20 FEET OF THE WEST HALF OF LOT 3 IN LYON'S PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA.
AND
LOT 16 IN LYON'S PARK PLAT NO. 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA; EXCEPT FOR PARCEL 'A' OF LOT 16, SAID LYON'S
AND

Area Currently in "N5" district

LOT 9 AND THE EAST 30 FEET OF LOT 10 IN LYON'S PARK PLAT NO. 2, AND OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA; EXCEPT FOR PARCEL 'A' OF LOT 10, SAID LYON'S PARK PLAT NO. 2, AS SHOWN IN PLAT OF SURVEY RECORDED IN BOOK 9910, PAGE 813.
AND
LOT 8 IN LYON'S PARK PLAT NO. 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA
PARK PLAT NO. 2, AS SHOWN IN PLAT OF SURVEY RECORDED IN BOOK 10135, PAGE 779.

from 'P2' Public, Civic and Institutional District and 'N5' Neighborhood District, to Limited 'MX3' Mixed Use District to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and 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 land use amendment and the proposed rezoning of the Property to Limited 'MX3' Mixed Use District are hereby overruled, and the hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow comprehensive plan, to amend the future land use classification for the Property from Low Density Residential and Low-Medium Residential to Community Mixed Use, is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to Limited 'MX3' Mixed Use District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to the above-stated conditions and final passage of an ordinance rezoning the Property as set forth herein.



Roll Call Number

Agenda Item Number

.....
Date November 15, 2021

MOVED BY _____ TO ADOPT.

APPROVED AS TO FORM:



Judy K. Parks-Kruse
Assistant City Attorney

(ZONG-2021-000024; ZONG-2021-000023)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| BOESEN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| MANDELBAUM | | | | |
| VOSS | | | | |
| WESTERGAARD | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |
| _____ 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.

_____ City Clerk

11-15-21



Date 11-15-21

Agenda Item 32

Roll Call # _____

October 26, 2021

Communication from the City Plan and Zoning Commission advising that at their October 21, 2021 meeting, the following action was taken regarding a request from Wesley Life (owner), represented by Craig Flanagan (officer) to rezone property located at 3206 University Avenue, 1117 33rd Street, and 1119 33rd Street "P2" Public, Civic, and Institutional District and "N5" Neighborhood District to "MX3" Mixed Use District, to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0-1 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|--------------------|-----|------|------|--------|
| Francis Boggus | | | | X |
| Dory Briles | X | | | |
| Abby Chungath | | | | X |
| Kayla Berkson | X | | | |
| Chris Draper | X | | | |
| Jann Freed | X | | | |
| Todd Garner | X | | | |
| Johnny Alcivar | X | | | |
| Lisa Howard | X | | | |
| Carolyn Jenison | | | | X |
| William Page | | | | X |
| Steve Wallace | | | | X |
| Greg Wattier | | | X | |
| Emily Webb | X | | | |

APPROVAL of Part A) The requested rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Approval of the proposed rezoning of the subject property from “P2” Public, Civic, and Institutional District and “N5” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. No driveway, ingress – egress, access to 33rd Street shall be allowed.
2. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be setback an equal distance as the residential home from the street side property line. (ZONG-2021-000024) & (ZONG-2021-000023)

Written Responses

6 in Favor

2 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Staff recommends approval of the proposed rezoning of the subject property from “P2” Public, Civic, and Institutional District and “N5” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. No driveway, ingress – egress, access to 33rd Street shall be allowed.
2. Sidewalk along the adjoining parcels, 1117 33rd Street and 1119 33rd Street, with a pedestrian access to the site shall be provided.
3. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be setback an equal distance as the residential home from the street side property line.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and allow expansion of the existing parking lot onto adjoining parcels.
2. **Size of Site:** Approximately 1.73 acres.
3. **Existing Zoning (site):** ““P2” Public, Civic, and Institutional District and “N5” Neighborhood District”.

4. **Existing Land Use (site):** Vacant land.

5. **Adjacent Land Use and Zoning:**

North – “DX1”; Use is a place of worship.

South – “N5”; Use is one family residential.

East – “RX1”; Use is an office.

West – “DX1”; Use is government administration.

6. **General Neighborhood/Area Land Uses:** The subject property is located midblock on the southside of University Avenue between 30th Street and 35th Street.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Drake Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 1, 2021 (20 days prior to the hearing) and October 11, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. Additionally, a Final Agenda for the hearing will be mailed to all recognized neighborhoods on October 15, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue Des Moines, IA 50311.

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

8. **Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

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 “Low Density Residential” and “Low-Medium Density Residential” on the Future Land Use Map. PlanDSM describes these designations as follows:

LOW DENSITY RESIDENTIAL

Areas developed with primarily single family and two-family residential units with up to 6 dwelling units per net acre.

LOW-MEDIUM DENSITY RESIDENTIAL

Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

The proposed “MX3” District zoning requires the “Community Mixed Use” designation on the Future Land Use Map for the rezoning to be found in conformance with PlanDSM.

The Community Mixed Use designation is described as follows:

Community Mixed Use

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.

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

The applicant is proposing “MX3” Mixed Use District in order to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street.

Staff believes that the proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor and the site being located within 400 feet of a Neighborhood Node and quarter of a mile of a Community Node, and also being within 125 feet of a MX3 zoned property.

2. **Planning and Design Ordinance:** Any development 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 any proposed additions or modifications.

The proposed parking on the adjoining parcels would have a separation of 30 feet from the N5 zoned property to the south and a separation of 21 feet from the 33rd Street side property line, consistent with the front of the home on that property. Additionally, the applicant has proposed to close the current street access to the 33rd Street which staff supports. A fully landscaped bufferyard and frontage buffer with fence required as part of Chapter 135: Planning and Design Ordinance. Staff further recommends installation of sidewalk along the adjoining parcels fronting 33rd Street with completion of pedestrian access to the site.

The location of the proposed restaurant addition on the University Street side of the building and the drive-through lane on the rear of the building are consistent with Storefront building typology.

- 3. Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Emily Webb asked if the applicant is opposed to anything within the staff recommendation.

Bert Drost stated they do not agree with the proposed zoning condition that would require sidewalk along their 33rd Street frontage. This condition would eliminate the ability to ask for waiver of the sidewalk during the site plan process.

Johnny Alcivar asked if any input was given from engineering as there seems to be a lot of impervious space being added?

Bert Drost stated he did not have a conversation with engineering, but the applicant may have more information in regard to that.

Johnny Alcivar stated the commission might see this item again if they do not comply with the site plan requirements.

Bert Drost stated that is correct, they may need type 2 design alternatives.

Chris Draper asked if parking requirements are being met?

Bert Drost stated he hasn't done a full analysis but believes they would meet the minimum for the proposed uses.

Chris Draper asked what the minimum would be for this zoning district?

Bert Drost stated for fabrication and production use, it would require 1 parking space for every 2 staff members, office space requires 1 space per 400 square feet of floor area, and restaurant or café use would require 1 space per 150 square feet of floor area.

Shannon Draayer representing Wesley Life stated they are a 75-year-old nonprofit serving older adults and have been operating the Meals on Wheels program since 2006. They are looking for a larger space as the current space cannot support the growing need. This building is going to allow them to triple their capacity. They have held 4 community meetings in the neighborhood, attended the Drake Neighborhood Association meeting and have met individually with 33rd Street neighbors.

Dan Drendel representing Slingshot Architecture stated they will be shutting down access to 33rd street as neighbors had concern with people using the lot as a cut through. They would ask for the sidewalk zoning condition to be removed. The parking requirements are currently aligned with the mix uses while being mindful of not over parking.

CHAIRPERSON OPENED THE PUBLIC HEARING

Stephanie Brennan 3127 Cottage Grove Avenue stated Wesley life has been very communicative and transparent with their plans from the beginning. She believes the project is very important for the neighborhood and is excited for what they are bringing to the area.

Jim Cain 1118 33rd Street read submitted letter verbatim and presented submitted photos.

Laura Amsler 1118 33rd Street stated she would like to support Wesley Life in not constructing the sidewalk on 33rd Street as it would add more concrete in green space they are trying to preserve.

Carol Maher 701 Polk Boulevard stated she has concerns with the drive through lane that is referenced in the staff report as this would encourage more car traffic in an area where a lot of people bike and walk.

Shannon Draayer stated there will be bike parking along University Avenue.

Dan Drendel stated the drive through lane would be a part of the Meals on Wheels program to provide a covered loading zone for food.

Shannon Draayer stated the proposed parking is dictated by the proposed uses, not just the Meals on Wheels but also the café and event space on the 2nd floor.

Chris Draper asked if they were allowed less parking, would they want less parking?

Shannon Draayer stated this number is adequate for what they need and aligns with what the city is requiring.

Chris Draper asked if they have a sidewalk in place on the southwest side for accessibility?

Shannon Draayer stated yes, that will allow neighbors access to the café and other services along University Avenue.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Chris Draper stated this is a great step in providing good and cost-effective food for those in need of these services.

COMMISSION ACTION:

Johnny Alcivar made a motion for:

Part A) The requested rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Approval of the proposed rezoning of the subject property from "P2" Public, Civic, and Institutional District and "N5" Neighborhood District to "MX3" Mixed Use District, subject to the following conditions:

1. No driveway, ingress – egress, access to 33rd Street shall be allowed.
2. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be setback an equal distance as the residential home from the street side property line.

Motion passed: 8-0-1

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh