

Agenda Item Number 56

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM ALEJANDRO J. MUNOZ DE LA CRUZ, FOR PROPERTY LOCATED AT 1117 26TH STREET, TO REZONE THE PROPERTY FROM "N5" NEIGHBORHOOD DISTRICT TO "N5-2" NEIGHBORHOOD DISTRICT, TO ALLOW REUSE OF THE EXISTING STRUCTURE FOR A DUPLEX USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 3, 2022, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Alejandro J. Munoz De La Cruz, for property located at 1117 26th Street, to rezone the property from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow reuse of the existing structure for a duplex use and determined the requested rezoning is in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan; and

WHEREAS, on November 21, 2022, by Roll Call No. 22-1796, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on November 21, 2022, at 5:00 P.M., in the 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 rezoning; 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; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property located at 1117 26th Street and legally described as follows:

Lot 32 in DRAKE UNIVERSITY SECOND ADDITION, an Official Plat now included in and forming part of the City of Des Moines, Polk County, Iowa

From "N5" Neighborhood District to "N5-2" Neighborhood District, to allow reuse of the existing structure for a duplex use.

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 are hereby overruled, and the hearing is closed.



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The proposed rezoning of the Property, as legally described above, to "N5-2", is hereby found to 2. be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, and final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Gary D. Goudelock Jr. Assistant City Attorney

(ZONG-2022-000093)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT	CERTIFICATE				
COWNIE									
BOESEN					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.				
GATTO									
SHEUMAKER									
MANDELBAUM	-								
VOSS					IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first				
WESTERGAARD									
TOTAL					above written.				
MOTION CARRIED			AP	PROVED					
Mayor					City Clerk				



November 15, 2022

Communication from the City Plan and Zoning Commission advising that at their November 3, 2022 meeting, the following action was taken regarding a request from Alejandro J Munoz De La Cruz (owner) to rezone property located at 1117 26th Street from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow reuse of the existing structure for a duplex use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	Х			
Dan Drendel	Х			
Leah Rudolphi	Х			
Dory Briles	Х			
Abby Chungath	Х			
Kayla Berkson	Х			
Chris Draper				Х
Todd Garner				Х
Johnny Alcivar				Х
Justyn Lewis				Х
Carolyn Jenison	Х			
William Page	Х			
Andrew Lorentzen				Х
Emily Webb	Х			
Katie Gillette	Х			

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

Part B) Approval of the rezoning of the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District.

Written Responses

- 1 in Favor
- 1 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the rezoning of the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request: The subject dwelling previously operated as a six-plex. However, it was vacant for more than one (1) year, which resulted in loss of approval to operate as more than a single household use. The applicant is proposing to rezone the subject property to allow reuse of the existing structure as a duplex.
- 2. Size of Site: 0.14 acres (6,148 square feet).
- 3. Existing Zoning (site): "N5" Neighborhood District.
- **4. Existing Land Use (site):** The subject property consists of a three-story dwelling with off-street parking at the rear of the property accessed via the alley.
- 5. Adjacent Land Use and Zoning:

North – "N5"; Uses are low density or low-medium density residential.

South – "N5"; Uses are low density or low-medium density residential.

East – "NX2"; Uses are multiple-household apartment building and parking lot.

West – "N5"; Uses are low density or low-medium density residential.

- 6. General Neighborhood/Area Land Uses: The subject property is located on 26th Street, in the block between Cottage Grove Avenue and University Avenue. It is located in the Drake Neighborhood, which consists of a mix of one-household residential, two-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.
- 7. Applicable Recognized Neighborhood(s): The subject property is located in the Drake Neighborhood Association. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on October 14, 2022 and by mailing of the Final Agenda on October 28, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on October 14, 2022 (20 days prior to the public hearing) and October 24, 2022 (10 days prior to the public hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood

Development Division on the date of the mailing. The Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

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

- 8. Relevant Zoning History: On June 13,2022, the Neighborhood Inspector sent a Notice of Violation for this property regarding multiple violation(s) of the Municipal Code of the City of Des Moines, Iowa that needed remedial action. The notice also stated, "It has been determined from that inspection that the dwelling currently constitutes a danger to health and safety to the public and is a public nuisance".
- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Low-Medium 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 area 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 has a future land use designation of "Low-Medium Density Residential". Plan DSM describes the designation as follows:

<u>Low-Medium Density Residential:</u> Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

Staff notes that the predominant character of the neighborhood is a mix of duplexes, house conversions, and apartment buildings on smaller-scaled parcels in a highly walkable area. Staff believes that the proposed duplex use would be consistent with the existing land use designation as it is included in the Low-Medium Density Residential definition.

The subject parcel is currently zoned "N5" District. The Zoning Ordinance describes this district as, "intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominantly in the Victorian, Revival, and Arts and Crafts styles pursuant to House D building type in section 135-2.16 of this code."

The applicant is proposing to rezone the parcel to the "N5-2" District. For N district locations labeled with a "-2 extension, the maximum number of household units permitted per lot is two, pursuant to section 134-3.1.2 of this code". The proposed "N5-2" District is consistent with the Low-Medium Density Residential designation since it allows for duplex uses.

2. Planning and Design Ordinance: Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). Should the rezoning be approved, the applicant would be required to prepare a site plan and building elevations for any proposed additions or modifications and address any pending violations to bring the site to compliance.

SUMMARY OF DISCUSSION

<u>Emily Webb</u> advised item #4 could be considered under the consent agenda if there is no interest in public comment. No one was present or requested to speak.

Dory Briles made a motion to move item #4 to consent. Motion carried 10-0

COMMISSION ACTION:

Leah Rudolphi made a motion for:

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

Part B) Approval of the rezoning of the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District.

Motion passed: 10-0

Respectfully submitted,

Jula Com

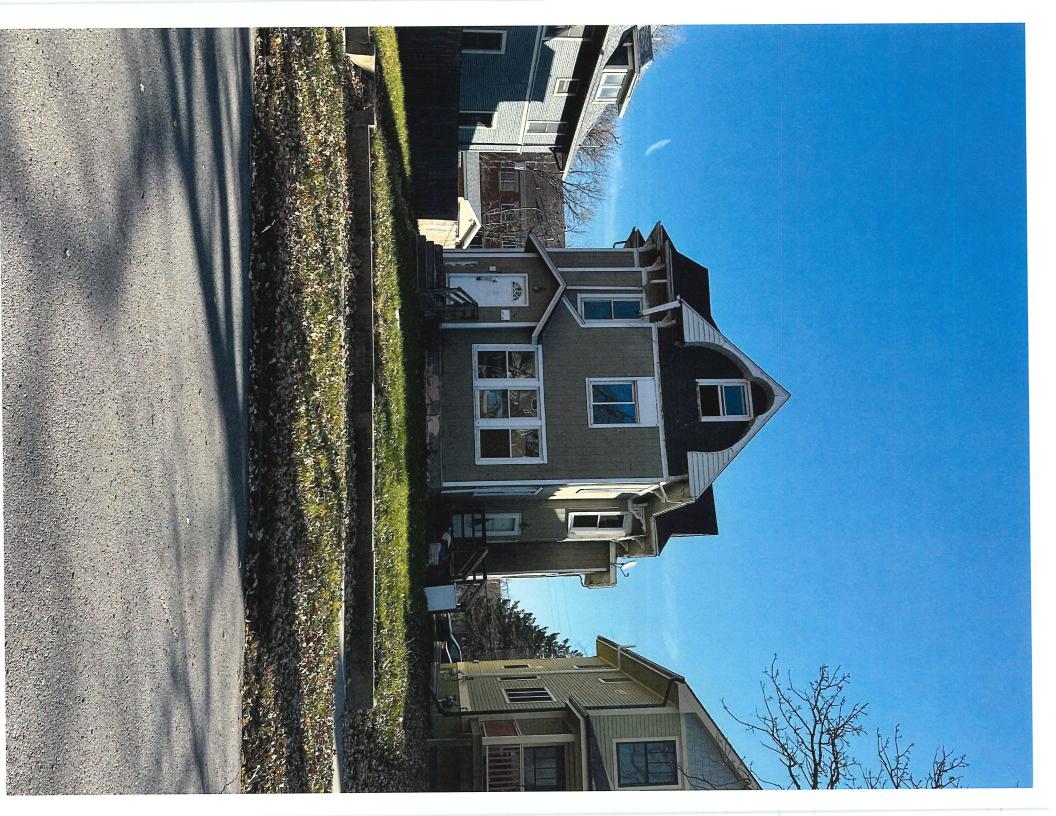
Jason Van Essen, AICP Planning & Urban Design Administrator

JMV:tjh

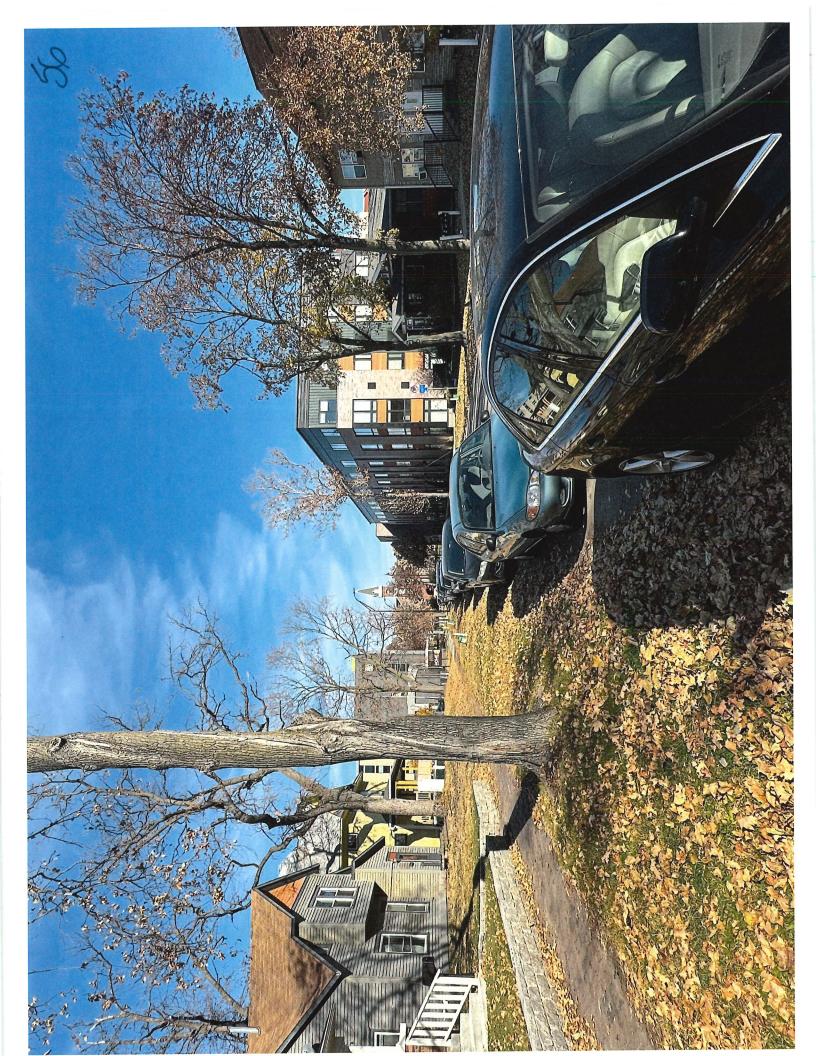
Alejandro J. Munoz De La Cruz, 1117 26th Street



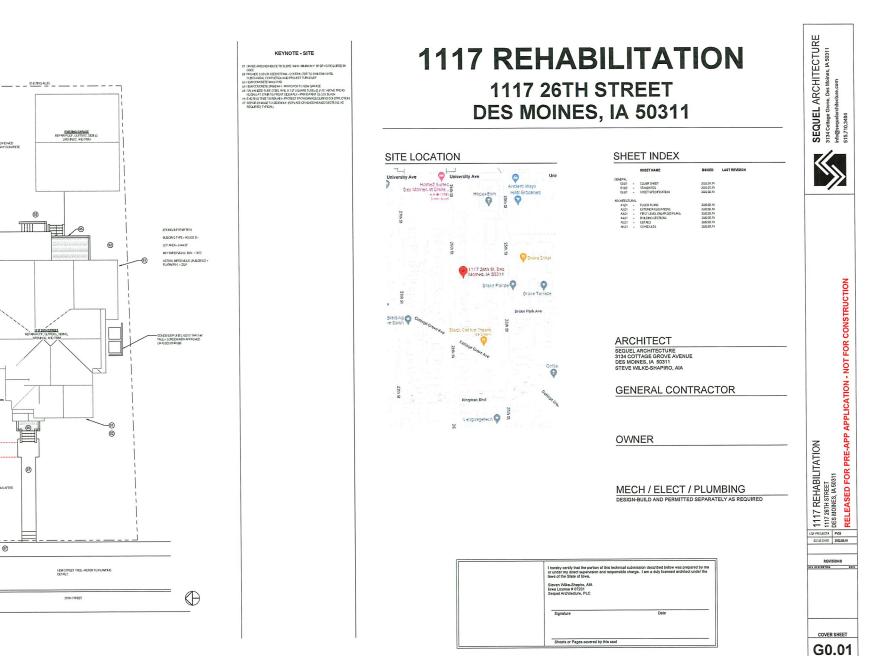












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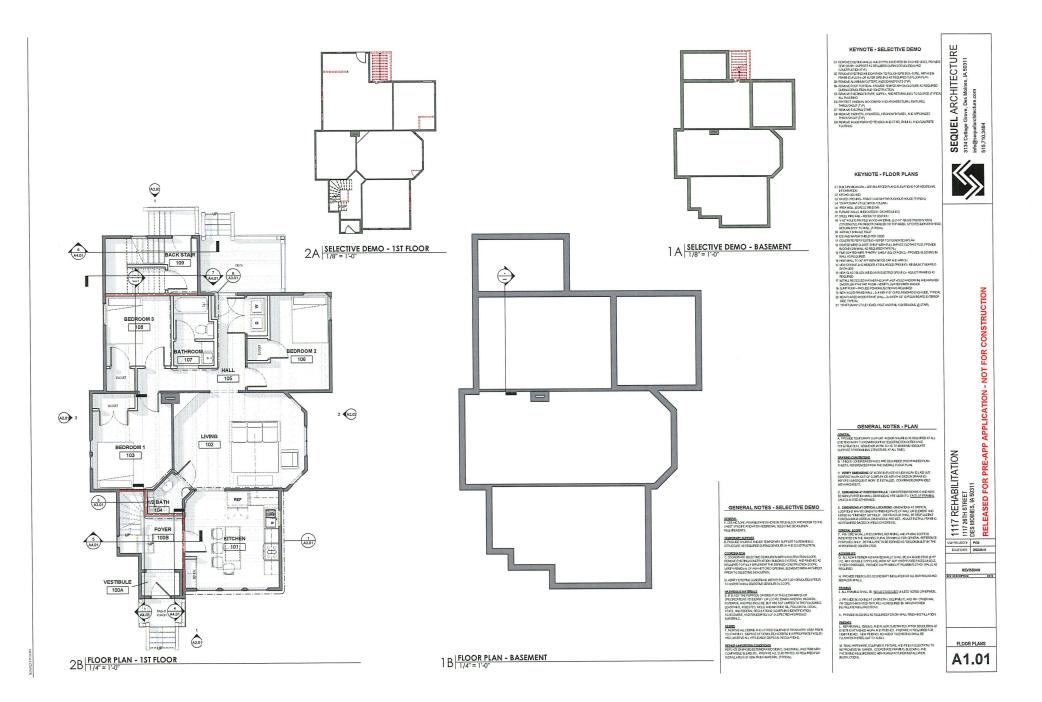
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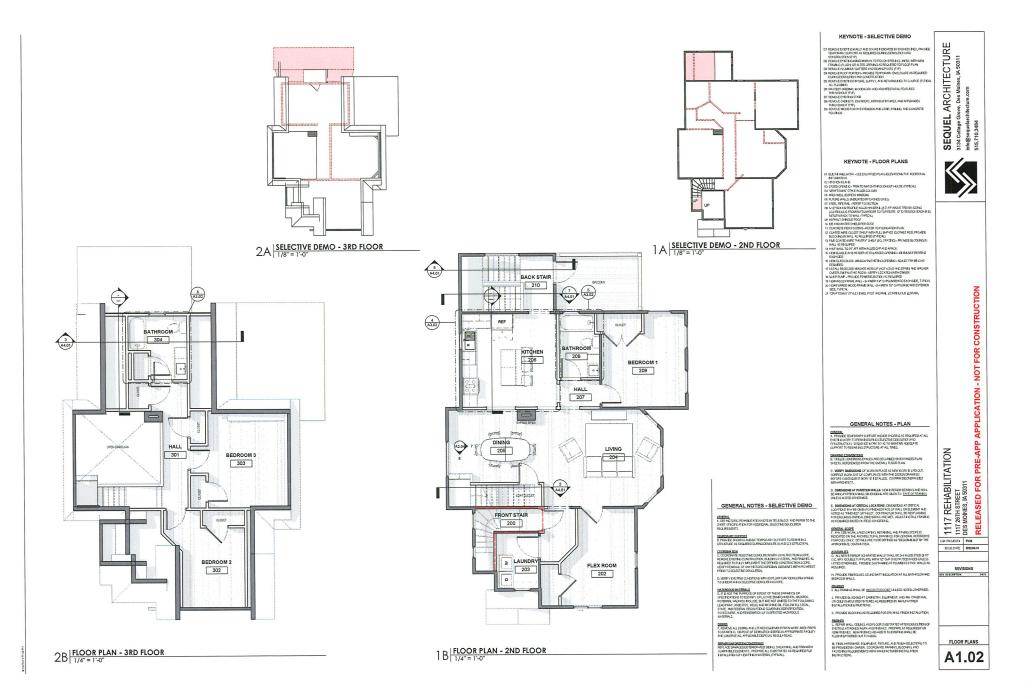
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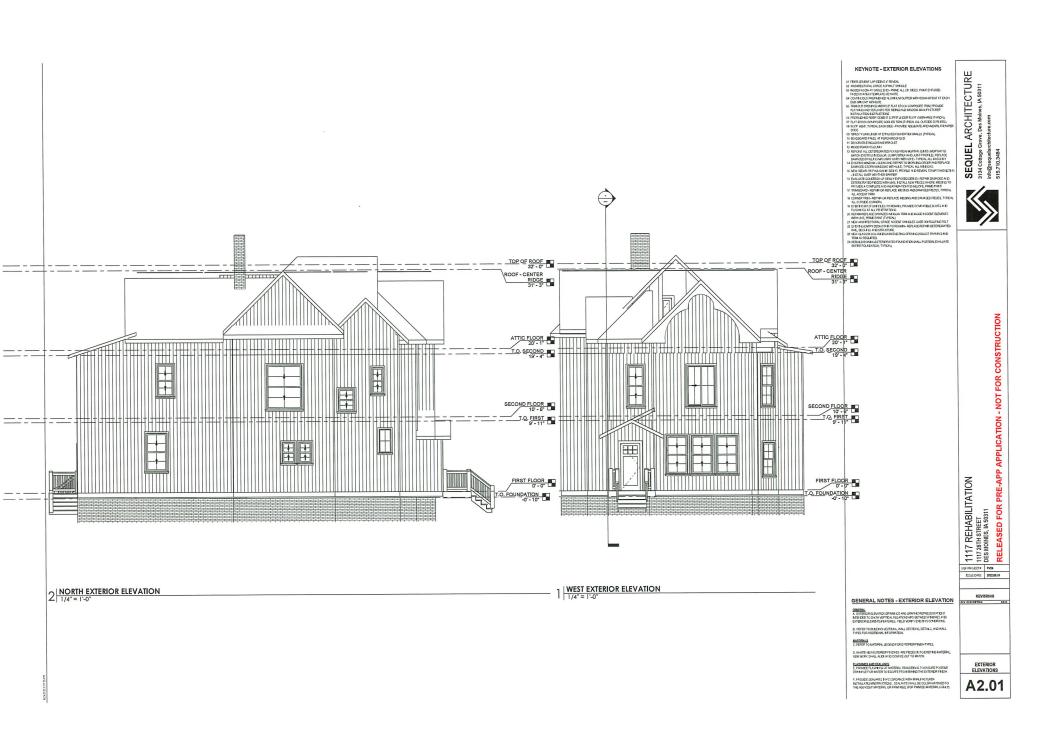
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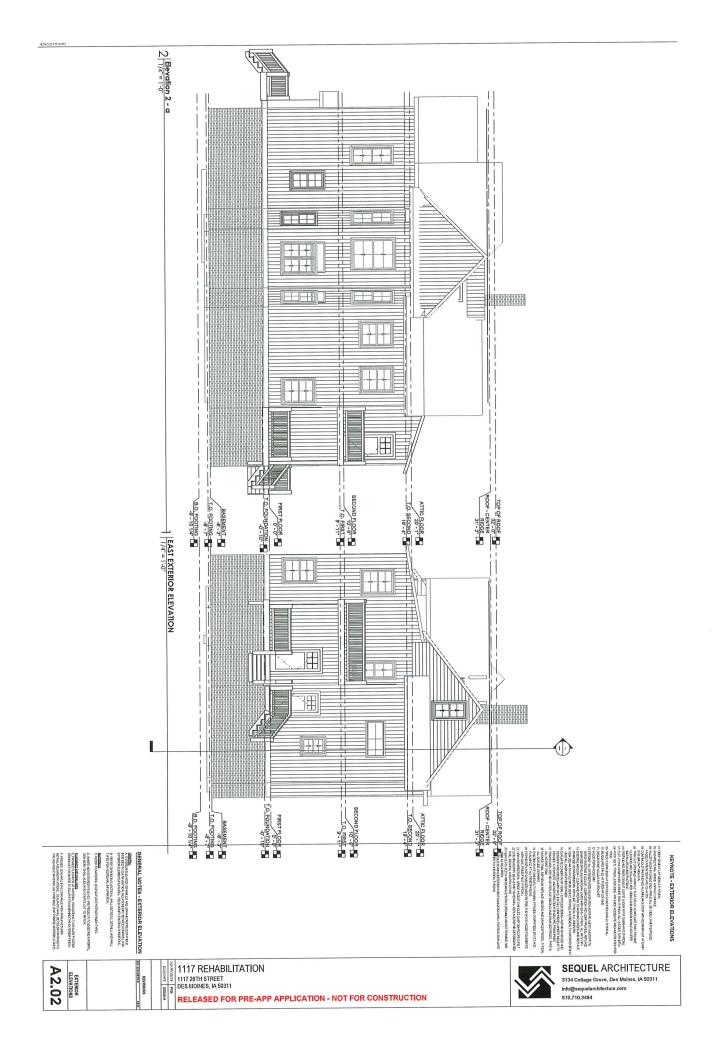
1 | SITE PLAN

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Wednesday, October 26, 2022

Rezoning Neighborhood Hearing

1117 26th Street

• Efforts to notify neighbors about the proposal, including how and when notification occurred, who was notified, and when and where the public

meeting was held

- A letter containing the meeting agenda and dial-in information was mailed to the 42 addresses provided using the USPS.
- Letters were mailed on Saturday, October 15th, 2022.
- The virtual meeting was held at 5:45pm on Wednesday, October 26th, 2022.
- No participants joined the meeting.
- Host waited 15min before Google closed the Hangouts meeting.
- · Who was involved in the discussions
 - N/A
- Suggestions and concerns raised by neighbors
 - N/A
- What specific changes, if any, were considered or made as a result of the neighbor meetings.

- N/A

From:	<u>Alejandro Munoz de la Cruz</u>
То:	Chakraborty, Sreyoshi
Subject:	Re: 1117 26TH ST Rezoning
Date:	Monday, October 31, 2022 9:42:44 AM
Attachments:	image001.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Sreyoshi. I hope you had a good weekend. Here is the follow up information we discussed based on my convos with the neighbor. Look forward to Wednesday's meeting.

When discussing the plan for the property the house to the north mentioned they don't love the "driveway" that's in between our houses which connects 26th Street with the back alley. After some discussion we agreed to remove it and instead we will be working with the landscapers to modify the final grade of the house to smoothly connect our front yard with theirs. Also, we will be collaborating with them on the concrete work that will be done in the area between our garages. The concrete will replace the gravel that's currently there. Finally, they are excited for us to begin working on improving the condition of the building as their kids think the house is "scary" right now. I mentioned we will likely have to wait until next spring to start as foundation work will be required as part of the build. They were a bit disappointed with having to wait that long. However, they understand we can't control the weather.

Thanks!

On Thu, Oct 27, 2022 at 12:23 PM Alejandro Munoz de la Cruz <<u>amunoz@puravidadsm.com</u>> wrote:

Yes, I've had conversations with the next door neighbors. I'll document that and send you a revised version of the document.

Thanks,

Alejandro

On Thu, Oct 27, 2022 at 12:12 PM Chakraborty, Sreyoshi <<u>SChakraborty@dmgov.org</u>> wrote:

Thank you for the summary.

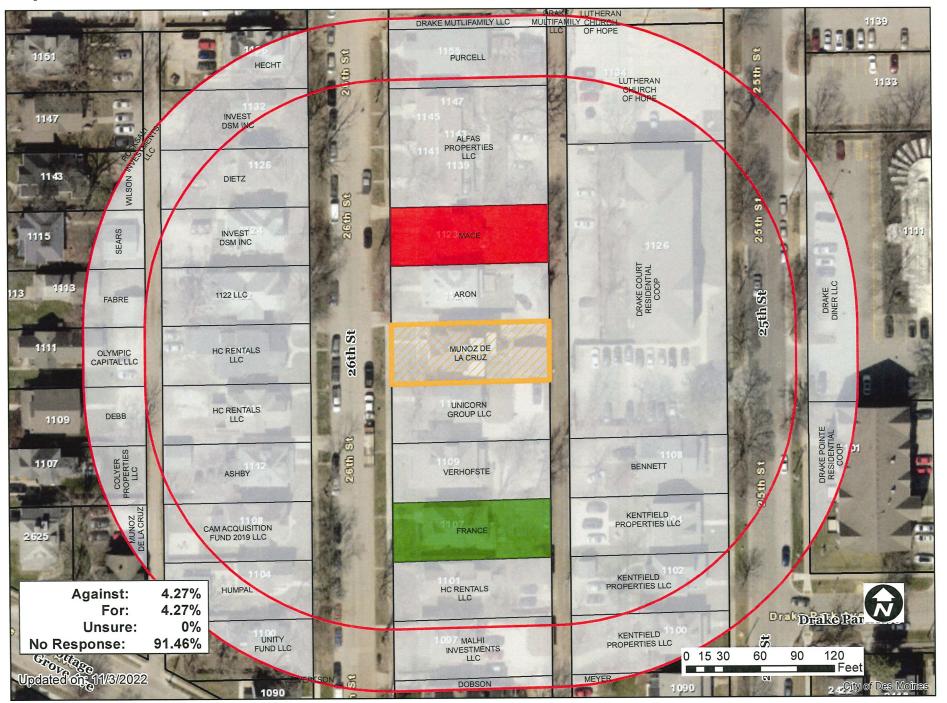
That could happen sometimes when no attendees show up, especially for Zoom meetings. Have you had any separate conversations or feedback from your immediate neighbors to the property? If yes, you could document those for the Commissioners as well.

The agenda and the staff report will be emailed to you tomorrow. That should have all the details for the meeting. But it is at 6 pm next week at the City's Municipal Services Center Boardroom.

Date: 10-21-22 ZONG-2022-000093 Item: Please mark one of the following Staff Use Only I am in favor of the request I am not in favor of the request RECEIVED COMMUNITY DEVELOPMENT Signature; OCT 3 1 2022 LUCI Name: 11 Address: 031 Reason for opposing or approving this request may be listed below: an di man 12 appen e made into an apar not ument an 0 much Thas 2 Tamily home 7 ZONG-2022-000093 Date: Item: Please mark one of the following Staff Use Only am in favor of the request I am not in favor of the request RECEIVED COMMUNITY DEVELOPMENT Signature: OCT 31 2022 anc Name: Address: Reason for opposing or approving this request may be listed below:

Alejandro J. Munoz De La Cruz, 1117 26th Street

ZONG-2022-000093



Alejandro J. Munoz De La Cruz, 1117 26th Street





1 inch = 75 feet