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Date January 8, 2024

RESOLUTION SETTING PUBLIC HEARING ON REQUEST FROM SUNDRY CHURCH (OWNER), REPRESENTED BY ANTHONY J HODGES (OFFICER) FOR PROPERTY LOCATED AT 4112 6TH AVENUE, TO REZONE THE PROPERTY FROM LIMITED “N3B” NEIGHBORHOOD DISTRICT TO “N3B” NEIGHBORHOOD DISTRICT TO REMOVE THE ZONING CONDITION THAT REQUIRES AT LEAST ONE (1) OFF-STREET MOTOR VEHICLE PARKING SPACE LOCATED OUTSIDE OF THE FRONT YARD AREA ON ANY PARCEL THAT CONTAINS A ONE-HOUSEHOLD RESIDENTIAL USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 21, 2023, its members voted 10-0 in support of a motion finding the requested rezoning for Property located at 4112 6th Avenue is in conformance with the existing PlanDSM future land use designation of Low Density Residential; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 21, 2023, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Sundry Church (owner), represented by Anthony J Hodges (officer), to rezone the Property located at 4112 6th Avenue from Limited “N3b” Neighborhood District to “N3b” Neighborhood District to remove the zoning condition that requires at least one (1) off-street motor vehicle parking space located outside of the front yard area on any parcel that contains a one-household residential use, and determined the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan:

WHEREAS, the Property is legally described as follows:

ALL OF LOT 105 AND THE NORTH 3 FEET OF LOT 106 OF COLLEGE PARK, AN O.P. AND THE EAST HALF OF THE VACATED ALLEY LYING WEST AND ADJACENT TO THE PARTS OF SAID LOT 105 AND 106, ALL BEING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed amendment to the comprehensive plan future land use designation is to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposal, shall be held at 5:00 p.m. on January 22, 2024 in the Council Chambers, City Hall, 400 Robert D. Ray, Drive, Des Moines.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more



Roll Call Number

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Agenda Item Number

21

Date January 8, 2024

than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED BY _____ TO ADOPT.

SECOND BY _____.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

(ZONG-2023-000070)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

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.

Mayor

City Clerk

December 22, 2023

Communication from the City Plan and Zoning Commission advising that at their December 21, 2023 meeting, the following action was taken regarding a request from Sundry Church (owner), represented by Anthony J Hodges (officer) to rezone the property located at 4112 6th Avenue from Limited “N3b” Neighborhood District to “N3b” Neighborhood District, to remove the zoning condition that requires at least one (1) off-street motor vehicle parking space located outside of the front yard area on any parcel that contains a one-household residential use.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus					X
Leah Rudolphi	X				
Abby Chungath	X				
Kayla Berkson					X
Chris Draper					X
Laura Kessel	X				
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis	X				
Carolyn Jenison	X				
William Page					X
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette	X				
Rick Trower					X

APPROVAL of Part A) The requested “N3b” District be found in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Approval of the request to rezone the property from Limited “N3b” Neighborhood District to “N3b” Neighborhood District

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested “N3b” District be found in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Staff recommends approval of the request to rezone the property from Limited “N3b” Neighborhood District to “N3b” Neighborhood District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is requesting to rezone the subject property in order to remove a zoning condition that requires provision of at least one (1) off-street motor vehicle parking space. The subject property contains a one-household residential dwelling unit, which was formerly accessory to the church use to the south. It was recently rezoned to a residential district so that it could be subdivided from the Church parcel and uses for residential use that is not accessory to the church. The rezoning was approved by Council, subject to a zoning condition that requires provision of at least one (1) off-street parking space within the subject parcel.

The applicant has since provided new information to Staff that indicates complying with this zoning condition would result in a substantial hardship for the applicant. Due to topography challenges, the presence of mature trees, and the significant cost of constructing a driveway, the applicant is requesting that the zoning condition be removed. This would allow the applicant to explore other options to accommodate the parking needs for the one-household dwelling unit.

Any future construction or redevelopment of the subject properties must comply with all applicable site plan and design regulations contained in the Planning and Design Ordinance (Chapter 135 of City Code).

2. **Size of Site:** 0.16 acres (6,896 square feet).
3. **Existing Zoning (site):** Limited “N3b” Neighborhood District.
4. **Existing Land Use (site):** The site consists of a one-household residential dwelling unit, which was formerly accessory to the Church use to the south.
5. **Adjacent Land Use and Zoning:**
 - North** – “N3b”; Use is one-household residential.
 - South** – ‘P2’; Use is a church.
 - East** – “N3b”; Use is one-household residential.
 - West** – “N3b”; Use is one-household residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the west side of 6th Avenue to the north of Shawnee Avenue. The surrounding area is predominantly residential and consists of one-household residential dwelling units.

- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Oak Park Neighborhood Association and within 250 feet of the Highland Park Neighborhood Association. All neighborhood associations were notified of the December 21, 2023, public hearing by emailing the Preliminary Agenda on December 1, 2023, and the Final Agenda on December 15, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on December 1, 2023 (20 days prior to the public hearing) and December 11, 2023 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All 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 Oak Park Neighborhood mailings were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313. The Highland Park Neighborhood mailings were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313.

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

- 8. Relevant Zoning History:** On August 21, 2023, the City Council by Roll Call # 23-1196, approved the rezoning of the subject property from "P2" Public, Civic and Institutional and "N3b" Neighborhood District to Limited "N3b" Neighborhood District classification, subject to the condition that, "Any parcel containing a one-household residential use shall contain at least one (1) off-street motor vehicle parking space located outside of the front yard area".
- 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 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 has a future land use designation of "Low Density Residential". PlanDSM describes the designation as follows:

Low-Medium Density Residential: Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

The applicant is proposing to rezone the parcel from Limited "N3b" District to "N3b" District to remove the conditional zoning. The Zoning Ordinance describes the "N3b"

District as, "intended to preserve the scale and character of residential neighborhoods developed predominantly during the 1950s through 1970s typically in the ranch, split-level, or cottage style pursuant to House B building type in section 135-2.14 of this code or House C in Section 135-2.15 of this code."

Staff believes the proposed rezoning is in conformance with the existing land use designation. The subject property is located in an area that is primarily low density residential. The existing Low Density Residential designation would allow a maximum density of 6 units per acre. The applicant is proposing to use the site for a one-family residential use.

- 2. Off-Street Parking:** With the rezoning and subdivision of the northern portion of the church property to a separate residential lot, off-street parking must be provided in accordance with the minimum ratios established in Table 135-6.4-1. This would require the one-household use to provide at least one (1) off-street motor vehicle parking space located outside of the front yard area. However, the applicant provided an engineer's cost estimate that indicates it would cost approximately \$48,800 to create an off-street parking space within the property. Additionally, the applicant has demonstrated that there are grade issues and the presence of mature trees within the property that would pose additional costs and challenges to installation of a driveway. They also indicate this would be detrimental to the curb appeal of the property and would not fit with the aesthetic character of the neighborhood. Staff believes these are legitimate challenges and imposes undue hardship on the applicant. Therefore, considering this new information from the applicant, Staff supports the request to remove the zoning condition requiring at least one (1) off-street motor vehicle parking space located outside of the front yard area on any parcel that contains a one-household residential use.

SUMMARY OF DISCUSSION

Abby Chungath asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for:

Part A) The requested "N3b" District be found in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Approval of the request to rezone the property from Limited "N3b" Neighborhood District to "N3b" Neighborhood District

THE VOTE: 10-0

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Sundry Church, 4112 6th Avenue

ZONG-2023-000070



1 inch = 74 feet





From: Wally Pelds
Sent: Wednesday, November 29, 2023 12:37 PM
To: Chakraborty, Sreyoshi <Schakraborty@dmgov.org>; Sommer, Jillian L. <JLSommer@DMGOV.ORG>; Larson, Kyle N. <KNLarson@dmgov.org>
Cc: Van Essen, Jason M. <JMVanessen@dmgov.org>
Subject: RE: 4100 6th Avenue

Sreyoshi,

4100 6th Avenue – Design waiver request.

In light of the unique circumstances surrounding 4100 6th Avenue in Des Moines, Iowa, we are seeking an exemption from the zoning code requiring off-street parking. The consideration of grades, mature trees, and costs related to driveway installation present compelling reasons for this exception. The property lies on a significant gradient, making it both challenging and expensive to establish a driveway and off-street parking. In addition, the presence of mature trees, which significantly contribute to the aesthetic appeal and environmental value of our neighborhood, would be unduly compromised by such construction. Further, the cost of installing a driveway that accommodates parking outside the front yard setback is prohibitive. We believe preserving the natural landscape and maintaining the character of the community should take precedence in this case.

On street parking is available and during snow events the adjoining church has agreed to reserve a parking space in their parking lot for this parcel. We understand the importance of off-street parking in maintaining order and safety in a community. However, we also believe that thoughtful consideration should be given to exceptions in special cases such as this. The unique topography and natural elements surrounding 4100 6th Avenue make it an exceptional situation that warrants careful evaluation.

Our Engineering Opinion of Costs for this is as follows:

Retaining Wall for Driveway 30 LF -	\$18,600
Foundation Reinforcement for over excavation -	\$11,000
Tree Removal-	\$ 3,000
Dirt Hauling – 10 Truckloads at \$350 per -	\$3,500
5" Driveway Paving -	\$5,200
Mobilization and Overhead -	\$7,500
TOTAL OPINION of COSTS -	\$48,800



From: [Alex Bradfield](#)
To: [Chakraborty, Sreyoshi](#)
Subject: [EXTERNAL]Summary of the Meeting
Date: Thursday, July 20, 2023 1:13:32 PM

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.

Sreyoshi,

Wally held the meeting at the office, it had two attendees.

They thought it was a great idea, they spoke highly of the previous renter; a single mother.

He also spoke to the neighbor to the west and they were also very supportive.

ALEX BRADFIELD
Engineering CAD Technician I



PELDS DESIGN SERVICES
Architecture | Engineering | Surveying
2323 Dixon Street | Des Moines, IA | 50316
O: 515 | 265 | 8196 P: 515 | 777 | 1366

Item: ZONG-2023-000070

Date: 12/13/2023 21

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 DEC 15 2023

Titleholder Signature: Christina E. Myrick

Name/Business: Christina E. Myrick

Impacted Address: 4116 WPA Ave

Comments: _____

Item: ZONG-2023-000070

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 DEC 18 2023

Titleholder Signature: Connie Beirman

Name/Business: Connie Beirman

Impacted Address: 4045 7th St. 50313

Comments: _____

Item: ZONG-2023-000070

Date: 12-13-2023

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
DEC 21 2023

Titleholder Signature: Cynthia A. LaVie

Name/Business: _____

Impacted Address: 4120-6th Avenue D.M.

Comments: _____

Sundry Church, 4112 6th Avenue

ZONG-2023-000070



1 inch = 74 feet