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Date January 13, 2025

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM ASOKARAMA ARKAKKA BUDDHIST SOCIETY (OWNER), REPRESENTED BY U THEIN MAUNG ZAW (OFFICER), FOR THE FOLLOWING REGARDING PROPERTY LOCATED IN THE VICINTY OF 4211 EAST 38TH STREET, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM LOW DENSITY RESIDENTIAL AND PARKS AND OPEN SPACE TO PUBLIC/SEMI-PUBLIC, AND TO REZONE THE PROPERTY FROM “N2A” NEIGHBORHOOD DISTRICT AND “F” FLOOD DISTRICT TO LIMITED “P2” PUBLIC, CIVIC, AND INSTITUTIONAL DISTRICT, TO ALLOW USE OF THE PROPERTY FOR AN “ASSEMBLY/PLACE OF WORSHIP” USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 5, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Asokarama Arkakka Buddhist Society (Owner), represented by U Thein Maung Zaw (Officer), for the proposed rezoning from “N2a” Neighborhood District and “F” Flood District to Limited “P2” Public, Civic, and Institutional District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential and Parks and Open Space; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 5, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Asokarama Arkakka Buddhist Society (Owner), represented by U Thein Maung Zaw (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential and Parks and Open Space to Public/Semi-Public; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on December 5, 2024, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Asokarama Arkakka Buddhist Society (Owner), represented by U Thein Maung Zaw (Officer), to rezone the Property from “N2a” Neighborhood District and “F” Flood District to Limited “P2” Public, Civic, and Institutional District, to allow the use of the property for an “Assembly/Place of Worship” use, subject to the following condition:

1. Any use upon the property shall comply with Chapter 50 of the Municipal Code relating to Floodplains, so long as any portion of the subject property is within a FEMA designated floodplain.; and

WHEREAS, the Property is legally described as follows:

LOT 11 AND THAT PART OF LOT "B" DESCRIBED AS LYING WEST OF A LINE PROJECTED DUE NORTH OF NORTHEAST CORNER OF SAID LOT 11 AND EAST OF A LINE PROJECTED DUE NORTH OF NORTHEAST CORNER OF LOT 10, ALL IN OFFICIAL PLAT, OF NORTHWEST 1/4 OF SECTION 21, TOWNSHIP 79, RANGE



Date January 13, 2025

23, WEST OF THE 5TH P.M., IOWA,; EXCEPT BEGINNING AT NW CORNER OF SAID LOT 11, THENCE NORTHEASTERLY ALONG LOT LINE OF SAID LOT 11, 260 FEET, THENCE EASTERLY ALONG NORTH LINE SAID LOT 11, 299.5 FEET, THENCE SOUTH 187 FEET, THENCE WEST 545 FEET TO WEST LINE SAID LOT 11, THENCE NORTH ALONG WEST LINE SAID LOT11, 100 FEET TO BEGINNING.

WHEREAS, on December 23, 2024, by Roll Call No. 24-1717, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing on January 13, 2025, 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 hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Low Density Residential and Parks and Open Space to Public/Semi-Public is hereby approved.
3. The proposed rezoning of the Property, as legally described above, from “N2a” Neighborhood District and “F” Flood District to Limited “P2” Public, Civic, and Institutional District, to allow the use of the property for an “Assembly/Place of Worship” use, subject to the condition set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.



Roll Call Number

Agenda Item Number

35

Date January 13, 2025

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

(ZONG-2024-000031) (COMP-2024-000027)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

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.

City Clerk

Date January 13, 2025

Agenda Item 35

Roll Call # _____

Dec 13, 2024

Communication from Asokarama Arkakka Buddhist Society (owner), represented by U Thein Maung Zaw (officer), for the following regarding property located at 4211 East 38th Street:

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification of the property from Low Density Residential and Parks and Open Space to Public/Semi-Public.
- C) Rezone property from “N2a” Neighborhood District and “F” Flood District to “P2” Public, Civic, and Institutional District, to allow use of the property for an “Assembly/Place of Worship” use.

COMMISSION RECOMMENDATION: 11-0

After public hearing, the members voted as follows:

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	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				
Jane Rongerude					X

Approval of the following:

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification of the property from Low Density Residential and Parks and Open Space to Public/Semi-Public.
- C) Rezone property from “N2a” Neighborhood District and “F” Flood District to “P2” Public, Civic, and Institutional District, to allow use of the property for an “Assembly/Place of Worship” use.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the requested amendment to revise the future land use classification from Low Density Residential and Parks and Open Space to Public/Semi-Public.

Part C) Staff recommends approval of the requested rezoning from “N2a” Neighborhood District and “F” Flood District to “P2” Public, Civic, and Institutional District, subject to the condition that any use upon the property shall comply with Chapter 50 of the Municipal Code relating to Floodplains, so long as any portion of the subject property is within a FEMA designated floodplain.

STAFF REPORT TO THE PLANNING COMMISSION

GENERAL INFORMATION

1. **Purpose of Request:** The applicant has been using this site, including existing accessory structures, for an “Assembly/Place of Worship” use that includes religious gatherings, community festivals, smaller community/religious meetings, and outdoor gatherings. The applicant is also proposed to host special events multiple times a year. The existing one-household dwelling on the property is proposed to be retained as the living quarters for a monk. The proposed uses fall under the Public, Civic, and Institutional category and is most consistent with the “Assembly/Place of Worship” use category. Therefore, the property must be rezoned to the “P2” District in order for the use to be retained.

Should the rezoning be approved, a site plan will be required for a change in the use of the property that complies with applicable design regulations within City Code Chapter 135. Furthermore, any use of the property for an assembly use will be subject to compliance with all Building Codes and Fire Codes.

2. **Size of Site:** Approximately 18.05 acres.

3. **Existing Zoning (site):** “N2a” Neighborhood District and “F” Flood District.
4. **Existing Land Use (site):** The subject property contains a 1,008 square-foot, one household dwelling, several accessory buildings, and a graveled parking area accessed by graveled driveway. Four Mile Creek runs along the northern boundary of the site and, therefore, a small portion of the property (approximately 10,000 square foot) is zoned “F” Flood District since it is within the FEMA-designated 100-year floodplain along Four Mile Creek.
5. **Adjacent Land Use and Zoning:**
 - North** – “N2a”, “F”; Uses are one-household residential.
 - South** – “N2a”; Uses are agricultural and one-household residential.
 - East** – “N2a”; Uses are agricultural, open space and Four Mile Creek.
 - West** – “F”; Uses are Four Mile Creek open space and one-household residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located along East 38th Street generally to the north of Hubbell Avenue. This area consists of primary large lot residential uses. Additionally, there is open space and wooded area along the Four Mile Creek channel.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within a designated neighborhood association. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on November 15, 2024 and of the Final Agenda on November 26, 2024.

Additionally, separate notifications of the hearing for this specific item were mailed on November 15, 2024 (20 days prior to the public hearing) and November 25, 2024 (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.

The applicant is required to conduct neighborhood outreach. They will be available to provide a summary of that outreach during the public hearing.
8. **Relevant Zoning History:** On August 8, 2024, the Zoning Inspector sent a notice for violation of City Code Section 134-1.7.4 & 134-1.7.5. relating to uses that are not allowed principal or accessory uses in the N2a zoning district. Other violations were also cited, per Section 135-2.22.2.C of the City Code.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential and Parks and Open Space.
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 applicant is requesting that the future land use designation for the property be revised from “Low Density Residential” and “Parks and Open Space” to “Public/Semi-Public”. 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.

PARKS AND OPEN SPACE

Land or water areas generally free from development. Primarily used for park and recreation purposes but may also indicate public or private open spaces reserved for natural resource conservation.

PUBLIC/SEMI-PUBLIC

Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries and community facilities.

The applicant is proposing to rezone the property from “N2a” Residential District and “F” Flood District to “P2” Public, Civic, and Institutional District. The Zoning Ordinance states that “P2” is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.

Staff believes that the requested rezoning would be appropriate for this area, subject to the condition that any use of the property shall comply with Chapter 50 of the Municipal Code relating to Floodplains so long as any portion of the subject property is within a FEMA designated floodplain.

2. **Floodplain:** A portion of this property is located within the FEMA 100-year floodplain. Therefore, any use upon the property must comply with Chapter 50 of the Municipal Code relating to Floodplains.
3. **Planning and Design Ordinance:** Should the rezoning be approved, a site plan will be required for a change in the use of the property that complies with applicable design regulations within City Code Chapter 135. Should the applicant propose to add buildings to the site, any encroachment into the FEMA-designated floodplain should comply with Chapter 50 of the City Code.

4. **Building Code:** Building and site work must comply with accessibility requirements of the ANSI A117.1 standard for accessibility, International Building Code and International Existing Building Code. These codes require accessible parking, an accessible route from accessible parking to an accessible entrance, accessible means of egress, and accessible routes throughout the building. Furthermore, any assembly use must in accordance with all Fire Codes pertaining to such use.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION

Katie Gillette made a motion for approval of the following:

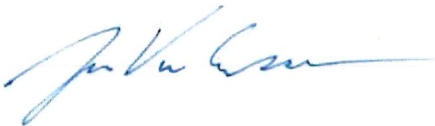
Part A) The requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) The requested amendment to revise the future land use classification from Low Density Residential and Parks and Open Space to Public/Semi-Public.

Part C) The requested rezoning from "N2a" Neighborhood District and "F" Flood District to "P2" Public, Civic, and Institutional District, subject to the condition that any use upon the property shall comply with Chapter 50 of the Municipal Code relating to Floodplains, so long as any portion of the subject property is within a FEMA designated floodplain

THE VOTE: 11-0

Respectfully submitted,



Jason Van Essen

Planning & Urban Design Administrator

JMV:mrw

Asokarama Arakka Buddhist Society 4211 East 38th Street

ZONG-2024-000031













ATTENDENCE RECORD OF NEIGHBORHOOD MEETING FOR REZOING





ASOKARAMA ARAKHA BUDDHIST SOCIETY

4211 E 38TH ST, Des Moines, IA 50317

Novembr 2, 2024

Name	Signature	Address
Foreest S Hammisen		3866 Bowler Rd.
TUNKYALU		2747 HOLCOMB AVE.
Kyaw aye Khine		2524 - BOSTON AVE
U Thein Mg Zaw		3901 Belaire Rd.
Tin She Thu soe		2721 Holcomb Rd Des Moines, IA 50310
Nay Myo Aung		2402 Welbeck Rd, Des Moines, IA 50310
Julia Stehlik		4281 E 35th St. Des Moines, IA
San San Oo		2753 Holcomb Ave Des Moines IA 50310
Ky Zen		2414 Boston Ave Des Moines, IA 50310
Bone Kyou		
Gandha Sara		4211 E 38th St Des Moines, IA 50317
Lwara Myanar		4211 E 38th St, Des Moines IA 50317.
Maung Htay		2710 25th ST DSM, IA 50310



Name	Signature	Address
Sean Levin		5042 - grand view Ave
BoBo Twa-		2421 Bennett + DE Smoines
Aung Myo Thu		IA - 50310
Ko Dun Thine		3819, 36th St Des Moines IA
		IA - 50310
		2756 - 1100 HOLCOMB









Summary of the Neighborhood Meeting
11/02/2024

We sent invitation letters to the address of the list you provided on October 25, 2024. Neighborhood meeting was taken place as we scheduled on Saturday, November 2nd at 5:00 pm-6:00 pm at 4211 E 38th St, Des Moines, IA 50317.

We introduced each other and we explained the purpose of the meeting that we are looking at rezoning the property from N2a Neighborhood District to P2 Zoning District in order to allow certain existing and proposed uses with the property such as religious gatherings, community festivals, and meetings.

We explained about our organization, Asokarama Arakkha Buddhist Society was established at Des Moines since 2013 and operates for eleven years. We have 500+ members and mostly are Arakanese Speaking, Rakhine People from western Burma or Myanmar.

Ma. Julia Selbiska, from 4281 E 38th St, Des Moines asked about What is Arakan, or Rakhine People and she have hard Burma was changed its new name. She also mentioned Daw Aung San Suu Kyi, a Nobel peace prize winner and a prodemocracy leader who is detained by military now.

I explained that the Rakhine People, Arakanese are a Southeast Asian ethnic group in Myanmar (Burma) forming the majority along the coastal region of present-day Rakhine State. Rakhine communities also exist throughout Burma and Bangladesh's Chittagong Hill Tracts and in India. Along with other ethnic minorities, we Rakhine people had to flee from persecution of military regime and we are grateful to the United States as given us chance to start new life and make Iowa home here.

I also explained the Rakhine water festival, also known as Sangrai, is a New Year celebration that marks the start of the new year with water throwing games. The festival is a communal celebration that is not tied to any religious tradition.

I also talk about Buddhism in brief that Buddhism is a spiritual tradition founded by Siddhartha Gautama (the Buddha) in India 5th Century BCE, focusing on achieving enlightenment and escaping the cycle of suffering through practices like meditation and ethical living, based on the concept of the Four Noble Truths and the Eightfold Path; it is considered a non-theistic religion with no central deity to worship, and emphasizes the impermanence of life and the nature of suffering as a key component of existence.

I also explained about Theravada Buddhism that it is the official religion of Sri Lanka, Myanmar, and Cambodia, and the main dominant Buddhist variant found in Laos and Thailand.

I also explained brief about the Civil War and Ongoing fighting in Burma (Myanmar) and the effects. I also explained about our proposals.

In Q&A sessions, Mr. Forrest S Harmsen from 3866 Bowsher Rd suggested to put a signboard with Temple Name and address easily visible from street. He said many people came to our address with GPS or Google Map ended up coming to his house.

He mentioned it was a horse burns here and the places are much better now.

He said there was Iowa saying, "before we met, it's strangers". Now we have met, we are no longer strangers. He said, "You are welcome".

We said Thank you very much and ended the meeting. We offered pizzas and soft drinks.

Nay Myo Aung
515-441-6362

Item: ZONG-2024-000031

Date: 12/3/24

Please mark one of the following:

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

<p>Staff Use Only RECEIVED COMMUNITY DEVELOPMENT DEC 10 2024</p>
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Titleholder Signature: James Belbin

Name/Business: _____

Impacted Address: 4281 E 38th St, DM

Comments: Pick up garbage/trash from events
so don't blow in crack or on my
property.

Item: ZONG-2024-000031

Date: 12/5/2024

Please mark one of the following:

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

Staff Use Only

Titleholder Signature: *Lance Sherry*

Name/Business: Lance Sherry

Impacted Address: 4140 E 38th St Des Moines IA 50317

Comments: _____

