



Roll Call Number

24-1004

Agenda Item Number

64

July 22, 2024 continued from

Date July 15, 2024

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM ORCHARD PLACE DES MOINES CHILDREN’S HOME (OWNER), REPRESENTED BY VALERIE SALTSGAVER (OFFICER), FOR THE FOLLOWING REGARDING PROPERTY LOCATED IN THE VICINTY OF 1301 KENYON AVENUE, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM LOW DENSITY RESIDENTIAL TO LOW-MEDIUM DENSITY RESIDENTIAL, AND TO REZONE THE PROPERTY FROM “NX1” NEIGHBORHOOD MIX DISTRICT TO LIMITED “NX2” NEIGHBORHOOD MIX DISTRICT

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 6, 2024, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from Orchard Place Des Moines Children’s Home (Owner), represented by Valerie Saltsgaver (Officer), for the proposed rezoning from “NX1” Neighborhood Mix District to Limited “NX2” Neighborhood Mix District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 6, 2024, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from Orchard Place Des Moines Children’s Home (Owner), represented by Valerie Saltsgaver (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Low-Medium Density Residential; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on June 6, 2024, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from Orchard Place Des Moines Children’s Home (Owner), represented by Valerie Saltsgaver (Officer), to rezone the Property from “NX1” Neighborhood Mix District to Limited “NX2” Neighborhood Mix District, to allow for the re-use of the existing building as a Group living not otherwise classified use, subject to the following conditions:

Any use of the property shall be limited to the following:

1. Any use as permitted and limited in the “NX1” Neighborhood Mix District, or
2. A Group Living Not Otherwise Classified use, per City Code Section 134-3.3.2.F, only so long as the Zoning Board of Adjustment grants a Conditional Use Approval for such use.; and

WHEREAS, the Property is legally described as follows:

AN IRREGULAR SHAPED PORTION OF LOT 2 AND LOT 3, DUNSHEE PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3;



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THENCE N00°10'58"W ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 198.64 FEET; THENCE S30°16'32"E, A DISTANCE OF 3.72 FEET; THENCE S21°32'16"E, A DISTANCE OF 73.42 FEET; THENCE S72°00'50"E, A DISTANCE OF 33.76 FEET; THENCE S25°53'08"E, A DISTANCE OF 39.96 FEET; THENCE S33°14'04"E, A DISTANCE OF 62.94 FEET; THENCE N05°16'19"W, A DISTANCE OF 29.65 FEET; THENCE N09°40'31"W, A DISTANCE OF 77.38 FEET; THENCE N46°08'21"E, A DISTANCE OF 32.78 FEET; THENCE N01°09'30"W, A DISTANCE OF 68.13 FEET; THENCE N88°40'24"E, A DISTANCE OF 10.42 FEET; THENCE S71°05'49"E, A DISTANCE OF 31.20 FEET; THENCE N25°52'55"E, A DISTANCE OF 43.78 FEET; THENCE S89°20'31"E, A DISTANCE OF 48.82 FEET; THENCE N46°09'40"E, A DISTANCE OF 15.33 FEET; THENCE N01°09'32"W, A DISTANCE OF 48.37 FEET; THENCE N34°07'09"E, A DISTANCE OF 36.45 FEET; THENCE N13°42'54"E, A DISTANCE OF 50.50 FEET; THENCE N88°46'55"E, A DISTANCE OF 17.55 FEET; THENCE S25°55'39"E, A DISTANCE OF 32.85 FEET; THENCE N28°57'21"E, A DISTANCE OF 7.01 FEET; THENCE S00°05'16"E, A DISTANCE OF 370.04 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE N89°46'57"W ALONG THE SOUTH LINE OF SAID LOTS 2 AND 3, A DISTANCE OF 305.00 FEET TO THE POINT OF BEGINNING.

WHEREAS, on June 17, 2024, by Roll Call No. 24-0867, 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 June 17, 2024, 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.

Alternative A – Approval of Rezoning and PlanDSM Amendments

1. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Low Density Residential to Low-Medium Density Residential is hereby **APPROVED**.

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2. The proposed rezoning of the Property, as legally described above, from “NX1” Neighborhood Mix District to Limited “NX2” Neighborhood Mix District, to allow for the re-use of the existing building as a Group living not otherwise classified use, subject to the conditions set forth above, is hereby **APPROVED**, subject to final passage of an ordinance rezoning the Property as set forth herein.

(NOTE – APPROVAL REQUIRES SIX VOTES DUE TO OPPOSITION OF
GREATER THAN 20% OF RELEVANT PROPERTY OWNERS)

MOVED BY Mandelbaum TO ADOPT. SECOND BY Westergaard.

Alternative B - Denial

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

Second by _____

FORM APPROVED:

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

(ZONG-2024-000013) (COMP-2024-000010)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN		✓		
SIMONSON	✓			
VOSS	✓			
COLEMAN		✓		
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO		✓		
TOTAL	4	3		

MOTION FAILED

Connie Boesen 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.

Laura Baumgartner City Clerk