



**Roll Call Number**

22-0566

**Agenda Item Number**

38

**Date** April 4, 2022

**RESOLUTION HOLDING HEARING ON REQUEST FROM THE OAKS ON FLEUR, LLC TO AMEND  
PLANDSM FUTURE LAND USE CLASSIFICATION AND TO REZONE  
3010 FLEUR DRIVE AND 3020 FLEUR DRIVE**

**WHEREAS**, on February 7, 2022, by Roll Call No. 22-0174, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 20, 2022, the City Plan and Zoning Commission voted 14-0 in support of a motion finding that the proposed zoning was not consistent with PlanDSM future land use map; and

**WHEREAS**, on February 7, 2002, Roll Call No 22-0174, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 20, 2022, its members voted 9-5 in support of a motion to recommend **DENIAL** of a request by The Oaks on Fleur, LLC (owner), represented by Adam Sieren (officer), to amend the existing PlanDSM: Creating Our Tomorrow Comprehensive Future Land Use Plan designation for real property locally known as 3010 Fleur Drive and 3020 Fleur Drive (collectively "Property") from Low Density Residential to Medium Density Residential; and

**WHEREAS**, on February 7, 2022, by Roll Call No. 22-0174, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on January 20, 2022, its members voted 9-5 in support of a motion to recommend **DENIAL** of a request by The Oaks on Fleur, LLC (owner), represented by Adam Sieren (officer), to rezone 2 parcels comprising the Property from 'N3a' Neighborhood District to Limited 'NX1' Neighborhood District for the above-stated purpose, subject to the following conditions:

1. Drive approaches to the site from Fleur Drive are prohibited;
2. No more than 15 household units shall be developed;
3. All primary buildings shall front a public street; and
4. Any building that fronts Willowmere Drive shall not exceed 2 stories or 24 feet above grade in total height; and

**WHEREAS**, on February 7, 2022, by Roll Call No. 22-0174, it was duly resolved by the City Council that the requests for approval of the proposed PlanDSM Comprehensive Future Land Use Plan amendment and rezoning of the Property be set down for hearing on February 21, 2022, at 5:00 P.M.. in the Council Chamber at City Hall; 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**, on February 21, 2022, by Roll Call No. 22-0263, the City Council opened and continued said hearing to 5:00 p.m. on March 21, 2022, upon request by the applicant for additional time for review and evaluation of the proposed rezoning conditions and to address neighborhood questions; and

**WHEREAS**, on March 21, 2022, those interested in said proposed land use amendment and rezoning, both for and against, were given opportunity to be heard with respect thereto and have presented their views to the City Council; and

**WHEREAS**, on March 21, 2022, by Roll Call No. 22-0457, the City Council adopted a resolution continuing the public hearing until April 4, 2022, at 5:00 p.m. in the Council Chambers at City Hall, and directed the City Manager and Legal



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Department to prepare necessary legislation to **APPROVE** the proposed PlanDSM Comprehensive Future Land Use Plan amendment from Low Density Residential to Medium Density Residential and to **APPROVE** the proposed rezoning from ‘N3a’ Neighborhood District to Limited ‘NX1’ Neighborhood District to allow development of approximately 15 rowhome dwelling units subject to conditions acceptable to the City and the owner; and

**WHEREAS**, City Development Services staff worked with the Owner to establish conditions related to the rezoning, as follows, which conditions are included in an Acceptance of Rezoning executed by the property owner:

- 1) Drive approaches to the site from Fleur Drive are prohibited;
- 2) No more than 15 household units shall be developed;
- 3) Any building that does front Fleur Drive shall not exceed 2 stories in total height;
- 4) Any building that does not front Fleur Drive shall have a roof form and overall character that is similar to the character of the one household dwellings in the area to the satisfaction of the City’s Planning and Urban Design Administrator; and
- 5) The development shall comply with all stormwater management standards to the satisfaction of the City Engineer; 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 3010 Fleur Drive and 3020 Fleur Drive, legally described as:

LOT 2 (EXCEPT THE EAST 4 FEET) AND THE SOUTH 3 FEET OF THE WEST 193 FEET OF THE EAST 200 FEET OF LOT 1 (EXCEPT THE WEST 4 FEET OF THE EAST 11 FEET OF THE SOUTH 3 FEET) IN WILLOWMERE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

LOT THREE (3) EXCEPT THE EAST 4.00 FEET THEREOF (AS MEASURED PERPENDICULAR TO THE EAST LINE OF LOT 3) IN WILLOWMERE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

from ‘N3a’ Neighborhood District to Limited ‘NX1’ Neighborhood District, subject to the above-stated conditions; 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 plan amendment and proposed rezoning of the Property to Limited ‘NX1’ Neighborhood District 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 to Medium Density Residential, is hereby approved.



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- 3. The proposed rezoning of the Property, as legally described above, to Limited 'NX1' Neighborhood District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Protest filed by 20% or more of the Property Owners located within 200 feet of the exterior boundaries of the area included within the proposed zoning map amendment area. Des Moines City Code §134-6.3.10 & Iowa Code §362.6 and due to the Plan and Zoning Commission's recommendation for denial. Des Moines City Code §134-6.3.9.B.1.

MOVED BY Mandelbaum TO ADOPT. SECOND BY Boesen.

APPROVED AS TO FORM:

Judy K. Parks-Kruse  
 Judy K. Parks-Kruse  
 Assistant City Attorney

(ZONG2021-000051)  
 (ZONG2021-000052)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
BOESEN	✓			
GATTO	✓			
SHEUMAKER	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6	1		

MOTION CARRIED

APPROVED

J. M. Franklin Cownie 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.

P. Kay Cmelik

City Clerk