Legislation Details (With Text)

File #:	DC-O-0038-24 **Version:** 1		
Type:	Development Ordinance	**Status:**	Adopted
File created:	6/12/2024	**In control:**	Development Committee
On agenda:	6/18/2024	**Final action:**	6/25/2024
Title:	ZONING-24-000006 – Sur Mac Builders, LLC.: To approve the following zoning relief: Conditional Use for a Planned Development to allow an existing duplex to remain on the subject property. (Naperville/District 5) ZBA VOTE (to Approve): 6 Ayes, 1 Nays, 0 Absent Development Committee VOTE (to Approve): 5 Ayes, 0 Nays, 1 Absent		
Attachments:	1. Z-24-000006 Sur Mac Builders, LLC. Cty. Bd. (06-25-2024).pdf		

Date	Ver.	Action By	Action	Result
6/25/2024	1	DuPage County Board	Approved	Pass
6/18/2024	1	Development Committee	Approved at committee	Pass

Zoning Petition ZONING-24-000006 Sur Mac Builders, LLC.

WHEREAS, a public hearing was held on May 9, 2024, in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 6:00 P.M. before the DuPage County Zoning Board of Appeals and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting the following zoning relief:

Conditional Use for a Planned Development to allow an existing duplex to remain on the subject property, on the property hereinafter described:

LOT 19 IN BLOCK 15 IN BELT CITY SUBDIVISION IN SECTION 17 AND 18, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE COUNTY OF DUPAGE, STATE OF ILLINOIS; and

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above requested zoning petition presented at the above hearing and at the recommendation meeting held on June 6, 2024 does find as follows:

FINDINGS OF FACT:

1. That petitioner testified that the subject zoning relief is for a Conditional Use to allow an existing duplex to remain on the subject property, where it has existed since at least 1900.

2. That petitioner testified that they purchased the subject property in 2023 as a duplex within the R-4

Single Family Zoning District, and that the property was constructed as a duplex in 1900 per Naperville Township Assessor documents.

3. That petitioner testified that the subject property was used as a duplex for over one hundred (100) years and that the conversion to a single-family home changed the property's designation from legal non-conforming to a non-conforming use.

   a. That petitioner testified that approximately ten (10) years ago, a previous property owner closed up one of the entrances and converted the subject property into a single-family home, thereby removing the legal non-conforming use as a duplex in a single-family zoning district

   b. Furthermore, that petitioner testified that based on Google Map Street View images, the subject property was used as a duplex from 1900 to approximately 2012, and that sometime between 2012-2017, one of the entrances was closed off and the property was converted to a single-family home, and then later reconverted to a duplex use with renovations sometime after 2018.

4. That petitioner testified that they did not discover that the subject property was not a legal non-conforming duplex until after they closed on the subject property in 2023.

5. That petitioner testified that they completed a series of Freedom of Information Act (FOIA) requests to Naperville Township, DuPage County Building and Zoning Department, City of Aurora, and DuPage County Sheriff and that the returned FOIAs did not find any evidence that the property received any nuisance complaints/evidence in the last fifty (50) years.

6. That petitioner testified that the subject property is zoned R-4 Single Family Residential and borders the I-2 General Industrial District to the south, and that the subject property is a suitable transition from single family to industrial uses.

7. That petitioner testified that the existing duplex home/building was constructed in 1900 and that the allowing the existing duplex to remain on the subject property will not and does not impair the public health, safety, comfort, morals, or general welfare.

STANDARDS FOR CONDITIONAL USES:

1. That the Zoning Board of Appeals finds that petitioner **has demonstrated** that the granting of the Conditional Use is in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the County's comprehensive plan for development; and specifically, that the granting of the Conditional Use will not:

   a. Impair an adequate supply of light and air to the adjacent property as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and that it does not impair an adequate supply of light and air to the adjacent properties.

   b. Increase the hazard from fire or other dangers to said property as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and that any updates were constructed to the current Building Code and

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do not increase the hazard from fire or other dangers to said property.

c. Diminish the value of land and buildings throughout the County as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and has not diminished the value of land and buildings throughout the County.

d. Unduly increase traffic congestion in the public streets and highways as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and does not unduly increase traffic congestion in the public streets and highways.

e. Increase the potential for flood damages to adjacent property as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and does not increase the potential for flood damages to adjacent properties.

f. Incur additional public expense for flood protection, rescue or relief as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and does not impact flood protection, rescue, or relief.

g. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of DuPage County as petitioner **has demonstrated** that the duplex home/building was constructed in 1900 and that the allowing the existing duplex to remain on the subject property will not and does not impair the public health, safety, comfort, morals, or general welfare.

PETITIONER'S DEVELOPMENT FACT SHEET

GENERAL ZONING CASE INFORMATION		
CASE #/PETITIONER	**ZONING-24-000006 Sur Mac Builders, LLC.**	
ZONING REQUEST	Conditional Use for a Planned Development to all existing duplex to remain on the subject property.	
OWNER	SUR MAC BUILDERS, LLC., 6S381 4TH ST EOLA, IL 60519 / SUR MAC BUILDERS, L S PARK BLVD, SUITE 300, GLEN ELLYN, 60137 / AGENT: VINCENT TESSITORE, LI & TESSITORE P.C., 1730 PARK STREET, S 117, NAPERVILLE, IL 60563	
ADDRESS/LOCATION	6S381 4TH STREET, EOLA, IL 60519	
PIN	07-17-107-012	
TWSP./CTY. BD. DIST.	NAPERVILLE	DISTRICT 5
ZONING/LUP	R-4 SF RES	0-5 DU AC
AREA	0.19 ACRES (8,276 SQ. FT.)	
UTILITIES	Well/Septic	
PUBLICATION DATE	Daily Herald: April 24, 2024	
PUBLIC HEARING	Thursday, May 9, 2024	

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ADDITIONAL INFORMATION:	
Building:	No Objections with the concept of the petition. Additional information may at time of permit application. "Proper tenant separation will need to be iden provided if not already existing."
DUDOT:	Our office has no jurisdiction in this matter.
Health:	*No Comments Received.*
Stormwater:	No Objections.
Public Works:	Our office has no jurisdiction in this matter.
EXTERNAL:	
City of Aurora:	"The City of Aurora has no objection to this rezoning. Although it is contig City limits, this is simply an existing 2 unit that is being brought into confor
City of Naperville:	*No Comments Received.*
Naperville Township:	*No Comments Received.*
Township Highway:	*No Comments Received.*
Naperville Fire Dist.:	*No Comments Received.*
Sch. Dist. 204:	*No Comments Received.*
Forest Preserve:	"The Forest Preserve District of DuPage County staff has reviewed the info provided in this notice and due to the sizable distance between the subject p District property, we do not have any specific comments. Thank you."

LAND USE

Location	**Zoning**	**Existing Use**	**LUP**
Subject	R-4 SF RES	HOUSE	0-5 DU AC
North	R-4 SF RES	HOUSE	0-5 DU AC
South	EAST 4TH STREET/POSS ROAD	HOUSE	0-5 DU AC
East	R-4 SF RES	HOUSE	0-5 DU AC
West	EAST 4TH STREET AND BEYOND CITY OF AURORA	HOUSE	CITY OF AURORA

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above and at the recommendation meeting held on June 6, 2024, recommends to approve the following zoning relief:

Conditional Use for a Planned Development to allow an existing duplex to remain on the subject property.

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Subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition # **ZONING-24-000006 Sur Mac Builders, LLC.** dated May 9, 2024.

2. That the Conditional Use zoning relief shall expire after three (3) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:

   a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.

   b. The structure is voluntarily removed.

3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.

4. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing partial landscape screens around the perimeter of the development.

5. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

ZBA VOTE (to Approve): 6 Ayes, 1 Nays, 0 Absent

WHEREAS, the County Board Development Committee on June 18, 2024, considered the above findings and recommendations of the Zoning Board of Appeals and recommends to concur with the findings and recommends to approve the following zoning relief:

Conditional Use for a Planned Development to allow an existing duplex to remain on the subject property.

Subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition # **ZONING-24-000006 Sur Mac Builders, LLC.** dated May 9, 2024.

2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
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3. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing partial landscape screens around the perimeter of the development.

4. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

Development Committee VOTE (to Approve): 5 Ayes, 0 Nays, 1 Absent

DEVELOPMENT COMMITTEE FINDINGS OF FACT:

1. That the Development Committee removed the three (3) year time limit on the subject zoning relief originally placed by the Zoning Board of Appeals, as the existing duplex was built in 1900 and that an expiration date of the Conditional Use is not needed for the building.

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following zoning relief be granted:

Conditional Use for a Planned Development to allow an existing duplex to remain on the subject property, on the property hereinafter described:

LOT 19 IN BLOCK 15 IN BELT CITY SUBDIVISION IN SECTION 17 AND 18, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE COUNTY OF DUPAGE, STATE OF ILLINOIS; and

The Zoning Relief is subject to the following conditions:

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition # **ZONING-24-000006 Sur Mac Builders, LLC.** dated May 9, 2024.

2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
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3. That in conjunction with the submittal of a building permit the developer provides a landscape plan showing partial landscape screens around the perimeter of the development.

4. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul J. Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; DuPage County Division of Transportation; SUR MAC BUILDERS, LLC., 6S381 4TH STREET, EOLA, IL 60519 / SUR MAC BUILDERS, LLC., 45 S PARK BLVD, SUITE 300, GLEN ELLYN, IL 60137 / AGENT: VINCENT TESSITORE, LINDELL & TESSITORE P.C., 1730 PARK STREET, SUITE 117, NAPERVILLE, IL 60563; and Township Assessor, Naperville Township, 139 Water Street, Naperville, IL 60540.

Enacted and approved this 25th day of June, 2024 at Wheaton, Illinois.

_____

DEBORAH A. CONROY, CHAIR
DU PAGE COUNTY BOARD

Attest: _____

JEAN KACZMAREK, COUNTY CLERK

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