The May 20, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 863 0072 8757


P&Z ABSENT: Jann Freed, Dory Briles, Greg Jones and Kayla Berkson

STAFF PARTICIPANTS: Jason Van Essen, Bert Drost, Mike Ludwig, Tyler Hall, Laura Peters, Judy Parks-Kruse and Glenna Frank.

Will Page made a motion to approve the May 20, 2021, Plan and Zoning Commission meeting minutes. Motion carried 8-0-1 (Carolyn Jension abstained, Lisa Howard was not yet present).

Emily Webb asked if any members of the public or the Commission wished to speak on consent agenda items #1, #2, #3, #4, #5, #6 or #7. Member of the public requested to speak on item #2.

(Lisa Howard arrived)

Emily Webb stated the applicant for item #11 has agreed to the staff recommendation and can be considered under the consent agenda. Asked if anyone was opposed to moving Item 11 to the consent agenda. None were present.

Carolyn Jension made a motion to approve consent agenda items #1, #3, #4, #5, #6, #7 and #11. Motion Carried 10-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from State of Iowa (owner) represented by Cheri Myers (officer) for vacation of the following segments of street Right-Of-Way adjoining property located at 524 4th Street occupied by of the Iowa Department for the Blind. (11-2021-1.07)

A) A 6.5-foot by 43.0-foot segment of surface rights from the south edge of Watson Powell Jr. Way to allow for accessible entrance ramp to the north entrance of the building.

B) An 11.0-foot by 9.75-foot segment of subsurface rights from the south edge of Watson Powell, Jr. Way to allow for existing basement encroachment.

STAFF REPORT TO THE PLANNING COMMISSION
I. GENERAL INFORMATION

1. Purpose of Request: The subject right-of-way would allow for an existing basement encroachment and would allow the applicant to make repairs to an existing handicap accessible ramp and stairs that lead to the offices of the Iowa Department of the Blind.

2. Size of Site: 387 square feet of cumulative area.

3. Existing Zoning (site): “DX1” Downtown District.

4. Existing Land Use (site): The affected areas consist of public street ROWs with existing ramp and stairs and a basement encroachment.

5. Adjacent Land Use and Zoning: Adjacent land uses include a mix of public and commercial uses.

   North – DX2; use is Watson Powell, Jr. Way.

   South – DX1; use is the Iowa Department of the Blind.

6. General Neighborhood/Area Land Uses: The subject area is located along the south side of Watson Powell, Jr Way between 4th Street and 5th Avenue in the downtown. The area contains a mix of public and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject rights-of-way are in the Downtown Des Moines Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (10 days prior to the public hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Des Moines Neighborhood mailings were sent to Sebastian Hamirani, 1400 Walnut Street, #413, Des Moines, IA 50309.

8. Relevant Zoning History: None.


10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for
other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Traffic/Access: The requested ROW contains an existing ramp and stairs leading to the offices of the Iowa Department of the Blind, and an existing basement encroachment. Neither of these areas are needed for vehicular or pedestrian circulation in the area. The vacation would allow the applicant to make needed repairs.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested right-of-way vacations.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for approval of the requested right-of-way vacations.

THE VOTE: 10-0

Item 3

Request from R M Madden Construction, Inc. (owner) represented by Michael Madden (officer) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 2390 Herold Avenue, to allow construction of a 2-story House B Building Type with in an “N3a” Neighborhood District. (BLD2021-01187)

A) Allow transparency of 6% transparency on the first-floor primary frontage façade, which is 50% less than the 12% minimum per Section 135-2.14.3(A)(18).

B) Allow a 16.33-foot wide attached garage door that is that is 51.6% of the front façade width, which is greater than the 30% maximum required by Section 135-2.14.3(A)(10).
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 1,210-square foot one-household dwelling with a tuck-under garage. The applicant is seeking waiver of the transparency requirement on the front facade of the house. The applicant is also requesting the ability to construct the house with a wider garage door opening than what is allowed for a House B Building Type.

   Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 27,549 square feet or 0.632 acres

3. Existing Zoning (site): "N3a" Neighborhood District.

4. Existing Land Use (site): Undeveloped lot.

5. Adjacent Land Use and Zoning:
   - North – “N3a”; One-household dwelling.
   - South – “EX”; Commercial corridor along McKinley Avenue.
   - East – “EX”; Commercial corridor along Fleur Drive.
   - West – “N2b”; One-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located on the periphery of a residential area that consists primarily of single-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on May 14, 2021 and the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 14, 2021 (20 days prior to the hearing) and on May 24, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

   - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;
   - Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
     - Zoning restrictions at the time of the proposal;
     - The city’s comprehensive plan;
     - The city's plans for future construction and provision for public facilities and services; and
     - The facilities and services already available to the area which will be affected by the proposed site use;
     - Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
     - Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
     - Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
     - Consider the smart planning principles set forth in Iowa Code Chapter 18B.
Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  - For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Design Standards: The applicant is seeking waiver of the 12% transparency requirement, which requires windows on all street facing facades of a House B Building Type in a “N3a” Neighborhood District. The applicant is proposing one window on the front facade of the dwelling that equates to a 6% transparency calculation, which is a 50% reduction in the code requirement of 12%. A Type 1 design alternative could be issued to allow 8.4% transparency (30% reduction of the required 12% transparency).

The applicant is also requesting the ability to construct the house with a wider garage door opening than what is allowed for a House B Building Type. The proposed garage door is 51.6% of the front façade width, which is greater than the 30% maximum required by code. The applicant states that they are building to the market of the neighborhood and the predominate house design on the street, which is more in line with House A Building Type.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval to allow transparency of 6% transparency on the first floor primary frontage façade, which is 50% less than the 12% minimum per Section 135-2.14.3(A)(18).

Part B) Staff recommends approval to allow a 16.33-foot wide attached garage door that is that is 51.6% of the front façade width, which is greater than the 30% maximum required by Section 135-2.14.3(A)(10).

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for:

Part A) Approval to allow transparency of 6% transparency on the first floor primary frontage façade, which is 50% less than the 12% minimum per Section 135-2.14.3(A)(18).
Part B) **Approval** to allow a 16.33-foot wide attached garage door that is 51.6% of the front façade width, which is greater than the 30% maximum required by Section 135-2.14.3(A)(10).

**THE VOTE: 10-0**

Item 4

City Initiated request for the following regarding the property located at 2014 & 2016 East Ovid Avenue. The subject property is owned by C M Real Estate, LLC.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Rezone property from “P1” Public, Civic and Institutional District to “I1” Industrial District, to allow the existing buildings to be brought into compliance with their existing Professional Office and Warehouse uses. (ZON2021-00060)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The subject property is owned by a private property owner (C M Real Estate, LLC). The ongoing use of the property has been a Warehouse and Professional Office Use. The proposed rezoning would be consistent with the PlanDSM future land use designation of Industrial. It would also allow the existing use of the property to continue as a conforming use. Portions of the site are zoned “F” Flood District and are not proposed for rezoning. Notice to surrounding property owners was given to indicate the “F” Flood District area would also be considered for rezoning to “I1” Industrial District, subject to any development within the Federally designated 100-year floodplain complying with the City’s Chapter 50 Floodplain Development Regulations. This would give the Commission and City Council the ability to rezone the entire separately owned property, if needed.

2. **Size of Site:** 24,847 square feet (0.57 acres).

3. **Existing Zoning (site):** “P1” Public, Civic and Institutional District.

4. **Existing Land Use (site):** The subject property is developed with a 4,752-square foot warehouse building and a 2,800-square foot warehouse building. There is also a 2,160-square foot building used for a shop and office to the south within the “F” Flood District portion of the property.

5. **Adjacent Land Use and Zoning:**
North – “F”; Uses is a warehouse and office for a cleaning contractor business.

South – “F”; Use is regional drainage structure.

East – “I1”; Use is a vehicle transmission repair business.

West – “F”; Uses are regional drainage structure and a roofing contractor business.

6. **General Neighborhood/Area Land Uses:** The subject property is located within a Industrial park area between Delaware Avenue and Interstate 235 south of East Euclid Avenue. The area also has significant public storm water drainage infrastructure including a large regional detention basin facility.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood. The neighborhood associations were notified of the June 3, 2021 public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the June 3, 2021 hearing for this specific item were mailed on May 14, 2021 (20 days prior to the public hearing) and on May 24, 2021 (10 days prior to the public hearing) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. An additional updated notice was sent on May 25, 2021 to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. This notice showed the entire property for the parcels at 2014 & 2016 East Ovid included in the rezoning area, including land currently zoned “F” Flood District. This would allow the flexibility to for the Commission and City Council to consider rezoning the entire property within the two parcels to “I1” Industrial District.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

8. **Relevant Zoning History:** The City Council rezoned a portion of the requested subject property was from “FW” Floodway District to “M-1” Light Industrial District on May 22, 2016 by Ordinance No. 15,480. The property was the rezoned to “P1” Public, Civic and Institutional District with the citywide Zoning Map update effective December 15, 2019.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.

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 is designated as “Industrial” on the Future Land Use Map. PlanDSM describes this designation as follows:

   **INDUSTRIAL**
   Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.

Additional property within the subject parcels is designated “Park and Open Space” and “Development Control Zone” overlay. Plan DSM describes these designations as follows:

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

   **DEVELOPMENT CONTROL ZONE**
   Areas that are sensitive to development, such as airport runway protection zones, flood hazard areas, etc.

Applicable portions of PlanDSM Creating Our Tomorrow:

   Goal 8
   Recognize the value of ecologically sensitive land and natural resources and ensure preservation of these areas for future residents and urban vitality.

   LU40: Prohibit development in identified ecologically sensitive and critical areas to limit impacts of construction and land disturbing activities.

   LU42: Permit reasonable development of land that addresses environmental constraints and minimizes disturbance of natural habitats.

   LU43: Regulate development in flood prone areas to protect from damage to public health, safety, and property.

Staff believes the proposed rezoning, if limited to the areas designated Industrial in the PlanDSM Future Land Use Plan, would be determined in conformance with the Comprehensive Plan.

Rezoning the remaining portion of the parcels from “F” Flood District would not be found in conformance with PlanDSM and would not be appropriate at the fringe of
ecologically sensitive land. Staff does not believe that any rezoning of any portion of the property zoned “F” Flood District should occur. Should the Commission find that Industrial Development would be in conformance with the Parks and Open Space and Development Control Zone designations, then Staff would recommend that it be made conditional that any development must be complaint with all floodplain development requirements of Chapter 50 of the City Code.

2. Engineering Comments: Any proposed development of the property within the “F” Flood District and corresponding Federal 100-year floodplain would be required to meet all Chapter 50 requirements of the City Code for floodplain development.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of rezoning the subject property from “P1” Public, Civic and Institutional District to “I1” Industrial District.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for:

Part A) The proposed rezoning to “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Approval of rezoning the subject property from “P1” Public, Civic and Institutional District to “I1” Industrial District.

THE VOTE: 10-0

Item 5

Request from Legacy Park, LLC (owner) represented by Russ Frazier (officer) for the following regarding the property located at 1315-1325 9th Street and 1322-1332 8th Street.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
B) Rezone property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow a two-household dwelling at 1323/1325 9th Street to be rebuilt after destruction by fire, and to allow the other existing two-household living uses on the subject property to be brought into compliance.  (ZON2021-00062)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow use of the property for two-household living uses and bring the subject property into full zoning compliance. The property is currently only allowed to be used for a one-household dwelling.

2. Size of Site: 49,256 square feet.

3. Existing Zoning (site): “N5” Neighborhood District.

4. Existing Land Use (site): A series of six parcels that each include a two-household dwelling.

5. Adjacent Land Use and Zoning:

   North – “N5”; Use is a one-household dwelling.

   South – “N5”; Use is a one-household dwelling.

   East – “N5”; Use is a one-household dwelling.

   West – “N5”; Use is a one-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located along the east side of 9th Street and the west side of 8th Street, mid-block between Forest Avenue and Indiana Avenue in an area that contains a mix of residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the River Bend Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on May 14, 2021 and the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 14, 2021 (20 days prior to the hearing) and on May 24, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The River Bend Neighborhood
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Association notices were mailed to Chris Chiramonte, 409 Franklin Avenue, Des Moines, IA 50314.

The applicant mailed the required neighborhood outreach letter and will be available to provide a summary of those communications at the hearing.

8. Relevant Zoning History: N/A.


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 is designated as “Low-Medium Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

   Low-Medium Density Residential: Areas developed with primarily single family and two family residential units with up to 12 dwelling units per net acre.

   The applicant is proposing to rezone the property from “N5” Neighborhood District to “N5-2” Neighborhood District. The “N5-2” District allows for one- and two-household dwellings that are in accordance with “House D” building types.

2. Planning and Design Ordinance: Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). The proposed “N5-2” District allows for one- and two-household dwellings that are in accordance with the “House D” building type. The provisions for this building type is contained in City Code Section 135-2.16. Any deviation from these requirements would be subject to the consideration of any necessary future Type 1 or Type 2 Design Alternative(s).

3. Staff Rationale: The proposed rezoning would allow the existing two-household dwellings to be considered permitted uses by the Zoning Code as opposed to being legal non-conforming as they are now. The application would also allow a new duplex to be constructed on the lot that is currently vacant. It previously contained a duplex but was demolished after suffering significant fire damage.
A two-household residential dwelling would fill a need identified in PlanDSM to provide medium density, missing middle housing. The location of the subject property within a community node lends itself to this type of use.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “N5-2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”

Part B) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for:

Part A) The proposed rezoning to “N5-2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”

Part B) Approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.

THE VOTE: 10-0

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Item 6

Request from Flummerfelt Eagle Pointe, LLC (owner) represented by Mike Flummerfelt (officer) for the following regarding the property located at 1985 East Army Post Road.

A) Determination as to whether the requested rezoning and Large-Scale Development Plan is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Medium Density Residential to Business Park for a portion of property to the north of the requested rezoning area. (21-2021-4.14)
C) Review and approval of a Large-Scale Development Plan for the site redevelopment of 18.50 acres for a Mobile Home Park expansion.

D) Rezone property from “EX” Mixed Use District to “NM” Neighborhood District, to allow use of the property for expansion of the Mobile Home Park currently under construction under adjoining expansion. (ZON2021-00059)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to rezone the southern 18.5 acres of the parcel to “NM” Neighborhood District so that it can be developed as a mobile home park with approximately 80 lots. The northern 3.8 acres of the parcel would remain zoned “EX” Mixed Use District to accommodate the existing mobile home sales use. The Large Scale Development Plan demonstrates that the proposed mobile home park would be accessed by a driveway from East Army Post Road and by internal park street connection from the mobile home park under construction immediately to the south.

2. Size of Site: 18.5 acres.


4. Existing Land Use (site): Vacant property developed with paved off-site parking.

5. Adjacent Land Use and Zoning:

   North – “EX”; Use is a mobile home sales use.
   South – “NM”, Use is a mobile home park.
   East – “N1a”; Uses are one household dwellings.
   West – “EX”; Use is a one household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located to the south of the Army Post Road corridor between Southeast 14th Street and Indianola Road.

7. Applicable Recognized Neighborhood(s): The subject property is in the Easter Lake Area Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 21, 2021 (20 days prior to the public hearing) and on May 24, 2021 (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 agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines on the date of the mailing. The Easter Lake Area Neighborhood mailings were sent to Jim Bollard, 4007 SE 26th Street, Des Moines, IA 50320.

The applicant held their required neighborhood meeting on May 24, 2021. They will be available to provide a summary of that during the hearing.

8. Relevant Zoning History: NA.


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 is designated as “Medium Density Residential”. PlanDSM describes this designation as follows:

   Medium Density Residential
   Areas developed with primarily higher intensity multi-family housing with a minimum density up to 17 dwelling units per net acre.

   The proposed “NM” Neighborhood District zoning is in conformance with this designation.

   However, the portion of the Large-Scale Development Plan that would remain zoned “EX” District is not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential. Therefore, this area should be amended to “Business Park”. PlanDSM describes this designation as follows:

   Business Park
   Accommodates light industrial, office, and employment uses along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences, and would have little more not adverse effect on surrounding properties.
2. **Planning and Design Ordinance:** Any development of the site for a mobile home park must be in accordance with a site plan that complies with the City’s Planning and Design Ordinance, which includes Section 135-2.21 that pertains specifically to mobile home parks. This section includes substantial requirements that ensure it is developed appropriately. For example, any mobile home space must be at least 4,500 square feet in area and any mobile home must be setback at least 10 feet from any park street. These requirements also dictate recreation areas, street layout, and sidewalk connectivity.

3. **Staff Rationale:** Staff believes that the proposed rezoning to “NM” District is appropriate given the location of the site adjoining an existing mobile park and given the fact that it is setback 480 feet from East Army Post Road and 700 feet from Indianola Road.

**II. STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “NM” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential. However, Staff recommends that the portion of the Large-Scale Development Plan that would remain zoned “EX” District is not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential.

Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from Medium Density Residential to Business Park for the portion of the Large-Scale Development Plan that would remain zoned “EX” District.

Part C) Staff recommends approval of the proposed Large-Scale Development Plan.

Part D) Staff recommends approval of requested rezoning of the south 18.5 acres of the subject property from “EX” Mixed Use District to “NM” Neighborhood District.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Carolyn Jension made a motion for:

Part A) The proposed rezoning to “NM” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential. However, Staff recommends that the portion of the Large-Scale Development Plan that would remain zoned “EX” District is not conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential.
Part B) **Approval** of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from Medium Density Residential to Business Park for the portion of the Large-Scale Development Plan that would remain zoned “EX” District.

Part C) **Approval** of the proposed Large-Scale Development Plan.

Part D) **Approval** of requested rezoning of the south 18.5 acres of the subject property from “EX” Mixed Use District to “NM” Neighborhood District.

**THE VOTE:** 10-0

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Item 7

Petition from Angela Young, 935 24th Street, to name a segment of Washington Avenue between Martin Luther King, Jr. Parkway and 16th Street with an honorary name “Dr. Bobby Young Avenue”.

(11-2021-1.08)

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** Angela Young submitted a request to add an honorary street name to the segment of Washington Avenue extending from 16th Street to Martin Luther King Jr. Parkway. The proposed honorary street renaming would add the name “Dr. Bobby Young Avenue” to Washington Avenue. Reverend Dr. Bobbly Young lives at 1834 Washington Avenue and is a long-time community advocate. For purposes of addressing and wayfinding, the official name of the street would remain Washington Avenue.

2. **Size of Site:** Approximately 60,335 square feet.

3. **Existing Zoning (site):** “N5” Neighborhood District.

4. **Existing Land Use (site):** Street right-of-way.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N5” District; Uses are single-family dwellings.
   - **South** – “N5” District; Uses are single-family dwellings.
   - **East** – “N5” District; Uses are single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The requested honorary street renaming is located in a residential area that primarily consists of one household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Mondamin Presidential Neighborhood and within 250 feet of the Drake Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested honorary street renaming. A Final Agenda was mailed to all the recognized neighborhood associations on May 28, 2021.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Mondamin Presidential Neighborhood notices were mailed to Terri Mitchell, 1822 Jefferson Avenue, Des Moines, IA 50314. The Drake Neighborhood notices were mailed to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** None.

9. **PlanDSM Land Use Plan Designation:** Low-Density Residential.

10. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, reviews all proposals for honorary street renaming. The recommendation of the Commission is forwarded to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Utilities:** There is an existing sanitary sewer within the specified right-of-way. There is an existing 8-inch water main within the specified right-of-way. There are no storm sewer conduit or structures in the specified right-of-way.

2. **Street System/Access:** The requested honorary street renaming would not impact vehicular or pedestrian movement in the area.

3. **Addressing Committee Policy:** The general guidelines for establishing honorary street names are to recognize individual citizens, organizations, entities and special events. Applications can be supported by a short essay that provides justification for the designation.

   1. Could be named for a prominent person who:
      a. Achieved prominence as the result of his or her significance, positive contribution to the history of the world, United States, the State of Iowa, or the City of Des Moines.
      b. Is a real person.
c. Has been deceased for at least five years.
2. Could be a geographical place name of prominence.
3. Could be named for flora, fauna, or geologic materials.
4. Could be names for a commemorative event which has achieved distinction as the result of significant and positive contribution to the world, United States, the State of Iowa, or City of Des Moines.
5. Could be named for the description of the area in which the street is located or a prominent landmark nearby.

Staff notes that the proposal does not fully comply with the policy, as the honoree is living. However, exceptions to this guideline have been made in the past when warranted.

III. STAFF RECOMMENDATION

Staff recommends approval of the request to honorably rename a segment of Washington Avenue between 16th Street and Martin Luther King, Jr. Parkway as “Dr. Bobby Young Avenue”.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for approval of the request to honorably rename a segment of Washington Avenue between 16th Street and Martin Luther King, Jr. Parkway as “Dr. Bobby Young Avenue”.

THE VOTE: 10-0

Item 11

Request from MidAmerican Energy Company (owner) represented by Pam McNaughton (officer) for the following regarding the property located in the vicinity of 2400 East County Line Road.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Industrial.

(21-2021-4.16)
C) Review and approval of a Large-Scale Development Plan for the site redevelopment of 24.68 acres for Professional Offices, Vehicle Maintenance and Repair, Major Utilities and Public Service Facilities and Outdoor Equipment and Materials Storage uses.

D) Rezone property from “N2b” Neighborhood District to “I2” Industrial District, to the property to be developed for an electrical utility service center in addition to the existing electrical substation. This would allow for request of a Conditional Use from the Zoning Board of Adjustment for above ground storage of flammable liquids interpreted as an Intensive Fabrication and Production use.

(ZON2021-00051)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has assembled approximately 25 acres of land use for crop production to develop a new service center.

2. Size of Site: 24.74 acres.

3. Existing Zoning (site): “N2b” Neighborhood District.

4. Existing Land Use (site): The subject property is partially developed on the eastern edge with a Major Utility and Public Service Facility (electrical utility substation) use. The remainder of the property is undeveloped land used for Crop Production.

5. Adjacent Land Use and Zoning:

   North – “P2”; Use is Worship Assembly (Lighthouse Community Church).

   South – “EX-V”; Use is existing MidAmerican Energy facility with Professional Offices, Vehicle Maintenance and Repair, and Outdoor Equipment and Materials Storage uses.

   East – “N3b”; Use is undeveloped land used for Crop Production.

   West – “MX3-V” and Meadowlands Legacy “PUD”; Uses are undeveloped land used for Crop Production and General Retail Sale (Earl May Garden Center).

6. General Neighborhood/Area Land Uses: The subject property is located near the intersection of Southridge Boulevard/U.S. Highway 69 and East County Line Road/Indianola Avenue. The area contains a mix of commercial, industrial, agricultural and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is not located within a Recognized Neighborhood. All neighborhood associations were notified of
the original May 20, 2021 public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the original public hearing) and on May 10, 2021 (10 days prior to the original public hearing) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

The applicant is required to do neighbor communication outreach as part of the rezoning process. This item was continued by the Commission in order to allow the applicant additional time to comply with this requirement. They will be available to provide a summary of that neighborhood outreach at the public hearing.

8. **Relevant Zoning History:** The subject property was zoned from “R1-80” One Family Residential District and “A-1” Agricultural District to “N2b” Neighborhood District as part of the citywide Zoning Map update effective on December 15, 2019.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low 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 is designated as “Low Density Residential” on the Future Land Use Map. PlanDSM describes this designation 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.

   The applicant is proposing to rezone the property from “N2b” District to “I2” District. The Zoning Ordinance states that “N2b” is intended for contemporary, mid-sized lots for single- and two-household residential houses with a more flexible building form and located in contemporary neighborhoods pursuant to the House A building type in Section 135-2.13 of the Municipal Code.”

   The proposed “I2” District zoning requires the “Industrial” designation on the Future Land Use Map in order to find the proposed rezoning in conformance with PlanDSM. Staff believes that the requested amendment to designate the future land
use to Industrial would also be necessary.

Industri al is described as follows:

**INDUSTRIAL**

Accommodates industrial development and limited supporting commercial uses.

Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.

The Zoning Ordinance states that “I2” is intended for general and higher intensity industrial uses as well as warehousing and transportation terminal.” Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant has proposed “I2” Industrial District in order to have flexibility to provide above ground storage tanks for flammable liquids, which is defined under the Zoning Ordinance within the Intensive Fabrication and Production description. The applicant is also proposing the possibility for outside storage of salvage material or inoperable vehicles and machinery. This would fall within the used description of Junk/Salvage Yard. Both these possible uses would require the “I2” Industrial District zoning, as well as a further approval of a Conditional Use by the Zoning Board of Adjustment.

In reviewing the surrounding context of uses within the area, Staff is concerned about the possibility of above-ground fuel storage and outside storage of junk and salvage materials within close proximity to civic and retail commercial uses and in direct proximity to future contemporary household living development. Staff believes, however, that aesthetic Workshop/Warehouse and General Building Types for Office and Vehicle Maintenance/Repair uses can be compatible with aesthetic design and outdoor storage and site development that is clean and conforms to the Site Plan requirements in Chapter 135 of the Municipal Code. Therefore, Staff recommends denial of the requested “I2” Industrial District, but is in favor of an alternative to consider a rezoning to the “I1” Industrial District. This would necessitate a shift to the applicant’s business model to provide underground fuel storage and to keep any storage of salvage or junk material completely within buildings. Staff believes this adjustment to the proposed development would be able to be compatible with the surrounding land use pattern.

2. **Large-Scale Development Plan:** The applicant provided the required Large-Scale Development Plan (LSDP) with the rezoning when it exceeds 5 acres in area. The submitted LSDP depicts the concept for the property development. It shows proposed buildings, parking area, outside storage area, open space and storm water detention. There is proposed vehicular access on the west and south. East County Line Road is shown based on proposed reconfiguration shifting the intersection with Indianola Road further north away from the intersection of Indianola Road and Southridge Boulevard/U.S. Highway 69. Stormwater is showing to be collected in a stormwater basin at the northwest corner of the property. Staff
would recommend adjusting the LSDP to indicate the fueling area would have underground storage.

3. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review before the property can be occupied by the proposed use.

4. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “I2” Industrial District (or even “I1” Industrial District) and the proposed Large-Scale Development Plan be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential.

Part B) Staff recommends approval of the requested amendment of the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Industrial.

Part C) Staff recommends approval of the submitted Large Scale Development Plan subject to a revision to indicate fueling area is served by underground storage and so long as storage of salvage or junk material shall only occur within completely enclosed buildings.

Part C) Staff recommends **denial** of the requested rezoning of the subject property from “N2b” Neighborhood District to “I2” Industrial District.

Staff recommends **approval** of an amended rezoning of the property from “N2b” Neighborhood District to the “I1” Industrial District.

### SUMMARY OF DISCUSSION

Emily Webb stated the applicant for item #11 has agreed to the staff recommendation and can be considered under the consent agenda.

### COMMISSION ACTION:

Carolyn Jenison made a motion for:

Part A) The proposed rezoning to “I2” Industrial District (or even “I1” Industrial District) and the proposed Large-Scale Development Plan be found not in conformance with the
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PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential.

Part B) Approval of the requested amendment of the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Industrial.

Part C) Approval of the submitted Large Scale Development Plan subject to a revision to indicate fueling area is served by underground storage and so long as storage of salvage or junk material shall only occur within completely enclosed buildings.

Part C) Denial of the requested rezoning of the subject property from “N2b” Neighborhood District to “I2” Industrial District.

Approval of an amended rezoning of the property from “N2b” Neighborhood District to the “I1” Industrial District.

THE VOTE: 10-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Greater Des Moines Habitat for Humanity (owner) represented by Tami Kreykes (officer) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 4110 Southwest 5th Street, to allow construction of a House D Building Type with in an “N5” Neighborhood District. (BLD2021-00610)

A) Allow a 12.25-foot street side setback along Leach Avenue which is 37.75 feet less than calculated average 50-foot street side yard setback per Section 135-2.16.3(A)(4).

B) Waiver of the required garage with provision of a 120-square foot storage shed per Section 135-2.16.3(E)(5).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new one-household dwelling on the property without providing a garage. Design alternative review
criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 48 feet by 138 feet (6,651 square feet).

3. **Existing Zoning (site):** “N5” Neighborhood District.

4. **Existing Land Use (site):** The property is currently vacant.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N5”; Uses are one-household dwellings.
   - **South** – “N5”; Uses are Leach Avenue ROW and one-household dwellings.
   - **East** – “N3a”; Uses are Southwest 5th Street ROW and one-household dwellings.
   - **West** – “N5”; Uses are one-household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is in the northwest corner of the intersection of Southwest 5th Street and Leach Avenue, in a residential area that consists primarily of one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in Watrous Heights Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (10 days prior to the public hearing) to the Watrous Heights Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Watrous Heights Neighborhood mailings were sent to David Houston, 604 Philip Street, Des Moines, IA 50315.

8. ** Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

10. **Applicable Regulations:** Section 135-2.16.3.A.5 states that for House Type D the minimum street side setback shall be 18 feet, with front setback averaging applicable.

    Section 135-2.16.3.E.5 states that a minimum 288 square feet garage is required for each House D building type and each unit of a 2-unit House D. A Type 1 design alternative for reduction in the size of garage or waiver of garage requirement may be approved subject to provision, in lieu of the required garage, a minimum 120...
square foot storage shed constructed with a foundation or concrete slab and with building materials matching the principal household dwelling on the property, and subject to determination by the community development director that the character of the surrounding area allows for a reduction in size or waiver of the required garage based on the following:

a. Whether at least 50% of the developed lots within 250 of the subject property are designed and constructed consistently with the requested design alternative(s); and

b. Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s).

For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination by the community development director will be based upon the assumption that such lots, as if developed, contain the required minimum 288 square foot garages for each House D building, and each unit of a 2-unit House D, thereon.

Based upon these criteria, the Community Development Director denied the applicant’s request for a Type 1 Design Alternative.

Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

• Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

• Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
  
  ➢ The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

  ➢ Zoning restrictions at the time of the proposal;

• The city’s comprehensive plan;
• The city's plans for future construction and provision for public facilities and services; and

• The facilities and services already available to the area which will be affected by the proposed site use;

• Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and greater consistency with the comprehensive plan.

• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:

    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
• For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

> The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

> Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

> Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

> Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

> Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Type 1 Design Alternatives Approved Administratively**: The following Type 1 Design Alternatives have been approved by staff:

   a. Decrease front yard setback by 5 feet (10%) per Section 135-9.2.3.B.1 to allow a 45-foot front yard setback.

   b. Decrease minimum overall height of the building by 0.5 story per Section 135-9.2.3.A.11 to allow a one-story building.

   c. Decrease the ground story minimum height by 0.90 inch per Section 135-9.2.3.A.5.a to allow 8’1 1/8” tall sidewalls.

   d. Reduce minimum transparency requirement by 6 feet (12.3%) for building façade facing Leach Avenue per Section 135-9.2.3.A.6.

2. **Street Side Setback**: The subject site is a corner lot, located in the northwest corner of Southwest 5th Street and Leach Avenue. It is oriented with the shorter side along Southwest 5th Street and longer side along Leach Avenue. The properties on both the north, as well as the west, are deep lots with their longer sides adjoining the subject site. This puts the subject site in a unique situation with regard to meeting front and street side setbacks which must be calculated as an average of two adjoining properties on both sides.
3. **Garage Requirement:** There are 37 parcels located within 250 feet of the subject property. Staff found that 30 (81%) of these parcels are built with a garage or are vacant and are assumed to have a garage pursuant to Section 135-2.16.3.E.5. The houses to the west and north are built with a garage. The house across Southwest 5th Street is not built with a garage. The applicant is proposing to install a 10-foot wide driveway on the west side of the house and a 10-foot by 12-foot (120 square foot) shed in the northwest corner of the lot.

Proposed updates to the Planning and Design Ordinance discussed by the City Council at its May 3, 2021 work session include allowing staff to issue a Type 1 Design Alternative to waive the garage requirement for House Types B, C and D, so long as a minimum 120-square foot storage shed is constructed with building materials that match the house. The shed must have a foundation or sits on a concrete slab.

4. **Staff Analysis:** The applicant is proposing a street side setback of 12.25 feet along Leach Avenue which is 37.75 feet less than calculated average 50-foot street side yard setback. Given the unique orientation of the subject site relative to the adjoining properties, the applicant faces a practical difficulty in meeting the required street side setback. Staff believes that the requested waiver would not have an adverse impact on the adjacent properties, the character of the surrounding area or the public health, safety and general welfare. It would meet the general intent of the code. Staff is supportive of the requested waiver of street side setback requirement.

The applicant proposes to build a 120-square foot shed that would meet the intent of the regulation to provide additional storage on the lot. An evaluation of the surrounding area shows that one-fifth of the houses in the 250-feet radius are built without garages. The proposed 10-foot driveway would get the site ready for eventual construction of a garage should a future homeowner feel the need, and can build one based on his/her ability and timeline.

In light of the proposed changes to the Planning and Design Ordinance that were discussed by the City Council and based on the findings of the neighborhood evaluation, staff believes that the request meets the criteria for consideration of a waiver of the garage requirement.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternatives and the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

Lance Henning 2200 East Euclid Avenue, representing Greater Des Moines Habitat for Humanity, stated having the setback on the corner will allow them to have the house...
there and match the character of the neighborhood. The house will have 5 bedrooms. They expect this house to appraise at $190,000 with the average of the neighborhood being $115,000. They believe there is adequate storage with the proposed storage shed and basement.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Andrea Greer asked if the setback would be from the edge of the sidewalk or the edge of the street?

Jason Van Essen stated the setback is calculated from the property line, so measured from the curb it would be closer to 20-25 feet.

Andrea Greer stated that does help, she doesn’t have a problem with no garage but doesn’t want the house sitting too close to the street as it could become a safety concern.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Rocky Sposato made a motion for approval of the requested Type 2 Design Alternatives and the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

**THE VOTE: 10-0**

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Item 8

A public hearing regarding proposed amendments to the Zoning Ordinance (Municipal Code Chapter 134) and Planning and Design Ordinance (Municipal Code Chapter 135).

A) Determination as to whether the proposed amendments to the Zoning Ordinance and Planning and Design Ordinance are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Adoption of the proposed amendments to the Zoning Ordinance and Planning and Design Ordinance. (10-2021-5.02)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

On October 16, 2019, the City Council approved a new Chapter 134 (Zoning) pursuant to Ordinance 15,816 and a new Chapter 135 (Planning and Design) pursuant to
Ordinance 15,817 both with an effective date of December 15, 2019. On December 16, 2019, the Council subsequently approved major revisions to Chapter 134 pursuant to Ordinance 15,844 and major revisions to Chapter 135, pursuant to Ordinance 15,845, that became effective December 16, 2019.

While preparing the revisions to these codes for Council’s consideration, the electronic files were no longer editable due to the size of the files and number of edits than had been made during the nearly four-year code drafting process. The code revisions that were approved pursuant to Ordinances 15,844 and 15,845 on December 16, 2019 were created as separate electronic documents and printed. The printed replacement pages to the code were manually numbered and inserted into a printed, paper copy of the code that was originally approved on October 16, 2019.

The amended paper copy was then scanned on a photocopier and saved as a PDF and the document was stored on the City’s servers and posted on the City’s websites as the approved code. Staff was unable to correct typos, remove “DRAFT” stamps, or activate links in the that document.

The same process was followed for code amendments to Chapter 134 pursuant to Ordinance No. 15,865 on February 10, 2020; amendments to Chapter 135 pursuant to Ordinance 15,962 on December 21, 2020; and amendments to Chapter 134 pursuant to Ordinance 15,982 on February 22, 2021.

The visual quality of the document was reduced with each printing and photocopying of a PDF file and the electronic functionality of the code was not fully realized.

Chapter 134 and Chapter 135 have now been replicated in new electronic files that allow the City to produce and post PDF’s that are created directly from the electronic files. The new PDF’s comply with accessibility requirements and provide active links for users to move to applicable sections throughout the code.

Minor (non-substantive) and Major (substantive) lists for Chapter 134 and Chapter 135 are enclosed with this staff report. City staff review and comparison of these lists to the updated ordinance text continues. Any minor discrepancies between this list and the updated ordinance text will be addressed prior to City Council consideration. The proposed PDF’s of Chapter 134 and Chapter 135 can be viewed at https://plandsm.dsm.city

II. CONSISTENCY WITH STATE CODE

The proposed amendments to the Chapter 134 (Zoning) and amendments to Chapter 135 (Planning and Design) have been prepared in consideration of Iowa Code Chapter 18B and in accordance with Iowa
Code Chapter 414 as applicable.

III. CONSISTENCY WITH PLANDSM

PlanDSM is the City’s Comprehensive Plan. Preparation of the proposed amendments to Chapter 134 (Zoning) and amendments to Chapter 135 (Planning and Design) are based upon and consistent with the following Goals and Policies of PlanDSM:

Land Use Goal 1

Develop new land development regulations consistent with this Comprehensive Plan, include development standards, provide for a mixture of land uses, mandate protection of natural resources, and promote flexible approaches to implementing the Plan.

LU1: Develop a new Zoning Ordinance and other land development regulations consistent with the goals and policies of PlanDSM.

LU2: Develop regulations sensitive to adjoining development and potential development to promote unique land use objectives including neighborhood centers and transit-oriented development (TOD).

LU3: Ensure new zoning and land use regulations promote development and redevelopment that is compatible with the neighborhood character and reduces negative impacts between incompatible uses.

LU4: Integrate development with the natural environment through green building and site planning practices.

LU5: Develop regulations to reduce blight and visual clutter including, but not limited to, signage, overhead power lines, telecommunications equipment, and other utilities. Regulations will be consistent with federal and state code and case law.

LU6: The City of Des Moines will strive to reduce greenhouse gas emissions by encouraging energy efficient buildings, reducing vehicle miles traveled, increasing landscape plantings, and utilizing green infrastructure.

Land Use Goal 2

Direct new growth and redevelopment to areas with existing infrastructure and nodes and corridors based on proximity to transit, shopping, services, and public amenities.

LU8: Encourage continued redevelopment and enhancement of regional nodes emphasizing a mix of uses, ease of access by transit, enhanced walkability, and high density residential.
LU10: Prioritize new mixed-use development and redevelopment along proposed high capacity transit corridors and nodes.

L11: Identify nodes appropriate for Transit Oriented Development (TOD). Prioritize nodes identified along high capacity transit corridors.

LU13: Encourage high-density housing in identified nodes and along corridors that provide convenient access to public transit, public amenities and services, schools and open space, and are in close proximity to job centers.

LU15: Prioritize development and redevelopment in areas with existing infrastructure and properties included in adopted Urban Renewal Plans.

LU16: Require new development in recently annexed areas to work with the city to evaluate the cost of providing city infrastructure and services to ensure development has a positive financial return on any city investment.

LU17: Establish requirements for the existence or provision of adequate public facilities prior to allowing new development in recently annexed areas. Consider cost-sharing agreements when development occurs in targeted areas.

Land Use Goal 4

Continue to embrace the distinct character of Des Moines’ neighborhoods while allowing for new development and redevelopment.

LU23: Create opportunities for a mixture of land uses within neighborhoods including mixed use centers, diverse housing products, recreational opportunities, public spaces, and schools.

LU25: Require new development and redevelopment to be compatible with the existing neighborhood character.

Land Use Goal 5

Continue to support the development of Downtown as the economic, cultural, and residential core of Des Moines.

LU27: Refine Downtown Zoning Districts to ensure consistency with the goals and policies of PlanDSM.

LU28: Encourage infill development at strategic downtown development sites and corridors.
LU29: Support downtown development that investigates and incorporates green building techniques and design.

LU32: Ensure a variety of business, employment, and building densities to develop an engaging downtown.

**Land Use Goal 6**

Recognize the value of Des Moines’ historic building stock and landscapes and ensure their preservation for future residents.

LU33: Promote preservation, restoration, and reuse of historical structures and landmarks.

LU34: Continue to refine design guidelines and develop standards that protect the historical integrity and architectural character in identified Historic Districts.

**Land Use Goal 7**

Maintain the existing industrial designated areas to provide appropriate locations for industrial use.

LU36: Develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.

LU37: Restrict expansion of existing or development of new non-industrial uses within industrially designated areas.

**Land Use Goal 8**

Recognize the value of ecologically sensitive land and natural resources and ensure preservation of these areas for future residents and urban vitality.

LU42: Permit reasonable development of land that addresses environmental constraints and minimizes disturbance of natural habitats.

LU43: Regulate development in flood prone areas to protect from damage to public health, safety, and property.

**Transportation Goal 1**

Develop a complete multi-modal transportation network for pedestrians, bikes, transit, and automobiles.
T2: Address all forms of transportation including walking, bicycling, transit, and automobile.

T5: Coordinate with the Des Moines Area Regional Transit Authority’s planning process to identify streets that may be identified for future high capacity transit corridors and plan for their redesign to accommodate that use.

T6: The City of Des Moines will strive to reduce greenhouse gas emissions by encouraging energy efficient buildings, reducing vehicle miles traveled, increasing landscape plantings, and utilizing green infrastructure.

Transportation Goal 3

Provide opportunities for healthy lifestyles through walking as a primary mode of transportation.

T12: Develop guidelines for streets and sidewalks to provide safe, attractive, and accessible pedestrian ways including pedestrian crosswalks.

Transportation Goal 4

Make transit a more attractive option for all City residents.

T21: Develop a transit oriented development (TOD) zone district or overlay for proposed nodes and corridors to achieve mixed-use, walkable environments.

T22: Encourage higher densities and mixed-use transit oriented development (TOD) to locate on transit corridors.

Transportation Goal 5

Enhance the bicycle network by expanding bicycle facilities that are safe, comfortable, and easily accessible.

T28: Provide bicycle parking downtown and establish bicycle parking requirements for new development.

Transportation Goal 7

Ensure the Des Moines International Airport continues to meet the needs of the local economy.

T39: Continue working with the Des Moines International Airport regarding airport/land use compatibility areas considering the recommendations of the Iowa Airport Land Use Guidebook.
Housing Goal 1

Provide a diversity of housing options to accommodate residents of all ages, income levels, household sizes, and cultural backgrounds.

H1: Ensure an adequate supply of housing through a mix of new development, infill development, and redevelopment of existing properties.

H2: Identify and explore the applicability of creative and innovative housing solutions such as Accessory Dwelling Units (ADUs), Single Room Occupancy (SRO), and smaller housing units through flexible zoning to meet the demand for smaller and affordable housing.

H3: Achieve a balanced mix of subsidized rental housing, income restricted, and market rate rentals in all neighborhoods and across the city.

H4: Promote accessible, affordable, and age friendly housing alternatives in all neighborhoods to accommodate persons with disabilities and allow seniors to age in place, in proximity to known services, and with easily accessible quality open space.

H5: Address availability and affordability of housing options for all families.

Housing Goal 2

Preserve, maintain, and improve the existing inventory of single-family and multi-family housing.

H6: Maintain sufficient residentially designated land to accommodate growth over the life of PlanDSM.

H15: Evaluate existing occupancy standards, zoning codes, and design standards to remove barriers that impact access, development, and maintenance of safe and affordable housing for all residents.

H16: Streamline permit and development processes to encourage development in accordance with applicable regulations.

Housing Goal 3

Promote sustainable housing development that utilizes existing resources and supports compact, walkable, and bikeable neighborhoods.

H17: Encourage the use of existing public infrastructure by focusing housing development on infill, vacant, and under-developed land.
H19: Encourage mixed use development that incorporates affordable and market rate housing along transit corridors and in neighborhood nodes.

H20: Prioritize housing development at an increased density in locations that are close to public transit, shopping, public amenities, schools, and open spaces.

**Housing Goal 4**

**Support development of and access to quality housing affordable to all income level households.**

H21: Ensure availability of rental and owner-occupied housing that meets the needs of households with all income levels in the city.

H22: Distribute affordable housing broadly throughout the City to avoid concentrations in neighborhoods or one sector of the City.

H23: Support and promote a regional approach to provision of affordable housing.

H29: Continue to pursue and efficiently distribute financial resources to provide subsidized and affordable housing to low-income residents.

**Economic Development Goal 1**

**Foster economic prosperity and stability by retaining existing businesses and recruiting new businesses.**

ED2: Utilize tax incentives, including tax abatement and tax increment financing (TIF), to retain, recruit businesses, and encourage higher quality design.

**Economic Development Goal 3**

**Recognize livability as a key aspect to economic development.**

ED15: Expect quality in the creation of public places and private development.

**Economic Development Goal 4**

**Foster a sustainable economy.**

ED17: Encourage businesses that diversify the economy; use locally produced materials and market their products locally; practice energy efficiency, provide a living wage; utilize green building practices; employ exemplary storm water management practices; and/or utilize sustainable transportation and distribution systems.

ED18: Assist redevelopment and infill development on sites with adequate infrastructure through incentives, intergovernmental coordination, and facilitated processes.
Public Infrastructure and Utilities Goal 1

Provide safe and reliable public infrastructure and utilities for current residents as well as future development needs.

PIU2: Require new development to provide adequate public infrastructure to serve the needs of the development and ensure facilities are sized and staged to provide for additional development beyond its boundaries.

PIU10: The City of Des Moines will strive to reduce greenhouse gas emissions by encouraging energy efficient buildings, reducing vehicle miles traveled, increasing landscape plantings, and utilizing green infrastructure.

Public Infrastructure and Utilities Goal 2

Evaluate capacity for implementation of and adaptation to green infrastructure in the city.

PIU11: Encourage the use of local renewable energy resources, technology, and design, and consider code and process amendments that encourage or do not inhibit sustainable development practices.

PIU14: Expand and maintain the city’s green infrastructure network to include such elements as preserves and parks, trails, stream corridors, green streets, greenways, and agricultural lands.

PIU15: Identify and mitigate barriers to implementation of green infrastructure in public and private development and rehabilitation/repairs.

PIU16: Update zoning standards to support the installation and maintenance of solar access.

PIU18: Balance the regulation of wind and solar access with preservation of the urban canopy.

PIU21: Increase landscape requirements in public and private parking lots to reduce heat island effects.

PIU22: Allow the use of permeable pavement in parking lots and driveways when soil types are suitable.

Public Infrastructure and Utilities Goal 4

In conjunction with local utility providers, ensure lighting standards and policies provide all residents with safe urban environments day and night while protecting views of the night sky.
PIU28: Provide high quality lighting fixture designs that are appropriate to street types and adjoining land uses, provide pedestrian friendly illumination, preserve dark sky conditions, and minimize glare and other unnecessary light pollution.

PIU29: Require full cutoff, down-directional lighting in all new developments to minimize both upward and sideways light pollution.

PIU30: Provide sufficient lighting for better wayfinding and safe circulation within and around developments.

Public Infrastructure and Utilities Goal 6

Ensure clean, safe water resources are equitably available to all current and future residents.

PIU34: Protect and improve the water quality of the city’s rivers, creeks, lakes, and aquifers for the use and support of aquatic life and resident enjoyment.

PIU35: Minimize sources of water pollutants in urban runoff through storm water retention, on-site water treatment technologies including green infrastructure, and the implementation of pollution prevention programs.

PIU36: Enhance the protection of creeks and floodplains to preserve environmentally sensitive areas and improve the quality of water.

PIU37: Prohibit development in the 100-year floodplain

Parks and Recreation Goal 4

Preserve, restore, and enhance natural systems in identified natural areas.

PR27: Protect and preserve the park and open space system’s natural areas.

PR28: Identify and acquire land to ensure protection of stream banks, natural greenways, and other areas that could be converted to park or open spaces. Such possible acquisitions could include old gravel mining areas and floodplains.

Community Character and Neighborhoods Goal 1

Embrace the distinct character offered in each of Des Moines’ neighborhoods.

CCN2: Ensure a diverse mix of housing types, styles, scales, density, and affordability that complement existing neighborhood character

CCN4: Adopt high quality development standards, such as zoning district and site plan regulations, and design guidelines related to form, massing, and materials that lead to the development of attractive, walkable neighborhoods.
CCN5: Ensure infill development is sensitive to the existing character of the neighborhood.

**Community Character and Neighborhoods Goal 2**

Further Des Moines’ revitalization efforts to improve the strength, stability, and vitality of all neighborhoods.

CCN14: Ensure neighborhood edges and corridors are attractive and inviting through effective planning and revitalization strategies.

**Community Character and Neighborhoods Goal 3**

Promote the redevelopment and revitalization of neighborhood nodes and corridors.

CCN17: Encourage commercial development that meets the service, retail, and entertainment needs of area residents.

CCN18: Promote compact, mixed-use development to provide adequate density to support neighborhood commercial viability.

CCN22: Encourage neighborhood nodes that are accessible by pedestrians, bicyclists, and transit users, as well as motorists.

CCN23: Support DART’s plans for high capacity transit corridors through infrastructure design, as well as appropriate transit-oriented development (TOD) land use and zoning.

**Community Character and Neighborhoods Goal 4**

Protect Des Moines’ historic and cultural assets that contribute to neighborhood and community identity.

CCN26: Partner with the historic preservation community to identify historic districts also ensuring context sensitive infill and redevelopment.

**Community Character and Neighborhoods Goal 6**

Strengthen the walkability and connectivity within and between neighborhoods.

CCN35: Emphasize transit usage in street design and land use on corridors with bus routes.

**Community Facilities Goal 2**
Provide a safe and secure environment for all City residents, workers, and visitors.

CF4: Combine design standards that promote quality and sustainable development with those that address public safety.

Social Equity Goal 1

Ensure high quality human services programs are available, accessible, and utilized to guarantee basic human needs so all residents lead lives of dignity.

SE3: Investigate and develop housing, such as permanent supportive housing units, for the chronically homeless, those experiencing episodic homelessness, and those at risk of homelessness.

Social Equity Goal 2

Ensure that all residents have convenient access to healthy food, health care, safe environments, and choices for an active lifestyle.

SE9: Ensure healthy, safe, and sanitary housing for all residents.

SE10: Prohibit new residential development in vulnerable areas such as floodplains.

SE15: Establish community gardens and farmers’ markets as a by-right use in residential neighborhoods.

SE18: Enable residential care facilities and other housing for aging persons to be located close to services and amenities.

Social Equity Goal 3

Ensure all city services, projects, programs, and events represent and encourage participation of a cross section of the city’s cultural diversity and geography.

SE20: Provide access to major city documents in multiple languages and/or provide translation services. Improve the City’s website to provide information in both Spanish and English.

SE22: Effectively engage the public and city partners/organizations/entities when making decisions that create, remove, or change a city service, project, or policy.

Social Equity Goal 4

Continue to celebrate the diversity of Des Moines provided by the many cultural communities that have chosen to live here.

SE26: Provide a liaison at the City to assist non-English speaking residents.
III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed amendments to Chapter 134 (Zoning) and proposed amendments to Chapter 135 (Planning and Design) are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the proposed amendments to Chapter 134 (Zoning) and Chapter 135 (Planning and Design).

SUMMARY OF DISCUSSION

Mike Ludwig Highlighted both substantive (major) and non-substantive (minor) code amendments as provided in the Commissioner packet. Noted that the proposed amendments are consistent with State Code and PlanDSM. It is imperative that the proposed amendments move forward to make a more accessible and user-friendly code available for public and staff use. Staff recommends approval of the proposed code amendments. The code is a living document and additional revisions will be proposed in the future.

Will Page stated article 8 regarding sidewalk requirements is very helpful, it clarifies what the City wants and the escrow agreement is a good solution for a problem that has been out there for a while. He believes the ad-hoc committee could be dissolved with the proposed changes to the zoning code.

Mike Ludwig stated the formalities of the escrow agreement still need to be drafted. Staff will come up with a simple per lineal foot cost for sidewalk construction that can be multiplied by the total lineal feet of frontage to determine the preliminary amount of the escrow. The escrow will also be capped at a percentage of the property value. This would be in line with the state code requirements for assessments.

Johnny Alcivar asked if this would apply to greenfield and infill development?

Mike Ludwig stated it is the City’s intent for waivers/deferrals to apply to infill development, not greenfield development. A deferral with an escrow deposit would primarily be an option for a Priority 1 sidewalk gap as identified in MoveDSM. Renewals of escrow agreements may be necessary.

Johnny Alcivar asked if the priority 1 sidewalks are targeted for the next 10 years, would priority 2 be the next 20?

Mike Ludwig stated priority 1 sidewalk gaps are simply the City’s highest priority for connections. They are safe routes to schools, connections to transit stops or commercial, etc. The City commits CIP funding on annual basis for sidewalk construction. In some instances, a priority 2 or 3 sidewalk gap that is installed today may need to be replaced before any adjoining sidewalk is installed. The amendments add the opportunity to apply for a Type 1 Design Alternative, but staff is not required to approve it. Staff will look at a multitude of factors such as the sidewalk priority
designation, existence of any sidewalk in proximity of the subject property and anticipated timing for any sidewalks by adjoining development or by the city when making decisions. If staff denies a waiver or deferral, the applicant can appeal the staff decision to the Plan and Zoning Commission.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Lance Henning stated he appreciates the City’s willingness to make improvements to the code and is supportive of these changes as they will help housing development around Des Moines.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Francis Boggus made a motion for:

Part A) The Commission find the proposed amendments to Chapter 134 (Zoning) and proposed amendments to Chapter 135 (Planning and Design) are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) **Approval** of the proposed amendments to Chapter 134 (Zoning) and Chapter 135 (Planning and Design).

**THE VOTE:** 10-0

1) Allow one (1) entrance less than the two (2) required entrances on a primary frontage façade calculated at one entrance per 45 feet of primary frontage required per Section 135-2.5.3(D)(20).

2) Allow 41% transparency on the ground floor of the primary frontage façade which is 36.9% less than the minimum 65% of transparency required by Section 135-2.5.3(D)(18) calculated per Section 135-3.8.3.
I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to build a new grocery store on the existing vacant financial services and existing one household living dwelling sites. The proposed development includes a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs. The proposed business model includes sale of packaged liquor, wine and beer. The parking lot adjacent to the building and across the alley shall accommodate an ingress/egress drive from 41st Place that will facilitate traffic trips coming east bound from Urbandale Avenue and leaving westbound on Urbandale Avenue.

2. Size of Site: 34,191 square feet (0.78 acres).


4. Existing Land Use (site): One household living dwelling and vacant financial services.

5. Adjacent Land Use and Zoning:
   - North – “MX1”; Uses are limited retail sales and a restaurant.
   - South – “N4”; Uses are one household living dwellings.
   - East – “MX1”; Use is limited retail sales.
   - West – “N4; Uses are one household living dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located at the periphery of a commercial node located at the intersection of Beaver Avenue and Urbandale Avenue.

7. Applicable Recognized Neighborhood(s): The subject property is in the Beaverdale Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (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. A Final Agenda was mailed to recognized neighborhoods on May 28, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Beaverdale Neighborhood Association notices were mailed to Marcus Coenen, PO Box 30175, Des Moines, IA 50310.

The applicant will be available to provide a summary of their required neighborhood outreach at the public hearing.
8. **Relevant Zoning History:** The subject property was zoned to “N4” Neighborhood District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.

On November 22, 2020, by Ordinance No. 15,946, the City Council rezoned the property to the east of the subject property from “MX1” Mixed Use District to Limited “MX3” Mixed Use District to accommodate the proposed limited retail sales use and allow the owner to have the ability to request a Conditional Use approval for package sales and service of liquor, wine and beer. Subject to the following conditions:

1) The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2) Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

On January 27, 2021, by Docket No. ZON2020-00168, the Zoning Board of Adjustment approved a Conditional Use for property located at 2716 Beaver Avenue to allow a limited retail sales use with the sale of packaged liquor, wine and beer for off-premises consumption.

On May 24, 2021, the City Council adopted Ordinance 16,012, rezoning the property at 2723 41st Place from N4 Neighborhood District to Limited MX3 Mixed-Use District. The rezoning was subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2. Accessory structures shall be limited to Drive-Through Facility and those permitted in the MX1 Mixed Use District per Table 135-2.22-1.

3. Commercial truck traffic is prohibited from using 41st Place to enter or exit the site.

4. Parking shall not extend further west than the west façade of the house on the adjoining lot to the south.

5. Private traffic signage and markings shall be installed that would prohibit drivers from making a left turn movement from the site access onto 41st Place. These traffic control devices would use signs stating, “No Left Turn” in word and/or graphic form and pavement markings directing exiting drivers and vehicles from the parking lot to only make a right turn onto 41st Place to discourage left turns from the parking lot onto 41st Place. The traffic signage
and pavement markings shall conform to the Manual on Uniform Traffic Control Devices and be maintained by the parking lot owner for the life of the certificate of occupancy.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential within a Neighborhood Node.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
  
  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

  - Zoning restrictions at the time of the proposal;

- The city's comprehensive plan;

- The city's plans for future construction and provision for public facilities and services; and

- The facilities and services already available to the area which will be affected by the proposed site use;

- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and greater consistency with the comprehensive plan.

• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:

    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

• For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

  ➢ Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
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- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Building Design: Section 135-2.5.3.D.20 of the Planning and Design Ordinance requires one (1) entrance per 45 lineal feet of primary frontage for storefront buildings. In this case, that would require the provision of two (2) entrances along Beaver Avenue. The applicant is requesting a Type 2 Design Alternative to allow a single entrance along Beaver Avenue.

Staff conditionally supports the requested Type 2 Design Alternative to allow a single entrance along the Beaver Avenue frontage (rather than the requires 2 entrances) subject to this entrance being open during all business hours and subject to a redesign of a more prominent two-way entrance to the satisfaction of the Planning Administrator. The applicant faces a practical difficulty in complying with these standards given the unique internal layout needs of the proposed use. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare.

Section 135-2.5.3.D.18 of the Planning and Design Ordinance requires 65% ground floor transparency measured between 2 feet and 8 feet on the primary frontage façade of the storefront building. The applicant is requesting a Type 2 Design Alternate to allow the submitted design which identifies the elevations as having 41% transparency. However, 13% of that is spandrel glass which cannot be counted toward meeting a transparency requirement. Vision glass provided is either on non-frontage walls or is above 8-foot on primary frontage walls. Vision glass between 2 feet and 8 feet is placed on the parking lot side (northwest elevation).

Approval of the request as proposed would have an adverse impact on the character of the corridor and would not provide the most beneficial application of design between existing and future uses. Staff would only support the Type 2 Design Alternative to the minimum required 65% ground floor transparency measured between 2 feet and 8 feet on the primary frontage façade of the storefront building if the 41% transparency that is proposed along Beaver Avenue frontage has a transmittance factor of at least 60%. Staff does recognize the difficulty according to the proposed operational layout but ground story transparency is a major component of the storefront building typography along street frontages and has not been adequately addressed by alternate design.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to allow one (1) entrance less than the two (2) required entrances on a primary frontage façade subject to this entrance being open during all business hours and subject to a redesign of a more prominent two-way entrance to the satisfaction of the Planning Administrator.

Staff recommends approval of the requested Type 2 Design Alternate to allow 41% transparency on the primary façade rather than the required 65% transparency along Beaver Avenue frontage so long as the 41% proposed has a transmittance factor of at least 60%, to the satisfaction of the Planning Administrator.

Staff recommends approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Greg Wattier asked what building type they would be complying with?

Jason Van Essen stated the storefront would be the most appropriate based on the zoning and function.

Greg Wattier asked how staff felt about their architecture?

Jason Van Essen stated it generally complies but would like to see a stronger reaction on the Beaver Avenue side. From a material standpoint, they've done what staff is looking for as its broken up, staff would like to get more emphasis around the Beaver Avenue entrance to give it more of a front entrance feel.

Greg Wattier asked if they have met the requirements of cornice, bottom of building and horizontal datums?

Jason Van Essen stated staff was comfortable with that as there is a fair amount of articulation.

Austin Weitl 1717 Ingersoll Avenue, representing Simonson and Associates, stated they have been working with Fareway for over a year trying to blend the Beaverdale characteristics while using more of their modernized design. Regarding the entrance, they could ask Fareway if they would be willing to move that more North. They understand the transparency requirement but don’t want people seeing in as it would be the back of house along Beaver Avenue. A potential solution would be to activate the sidewalk more by adding more landscaping, benches, lighting and a mural on the spangle glass.
CHAIRPERSON OPENED THE PUBLIC HEARING

David DeBord 2700 41st Place, stated Fareway wants the cachet of being in Beaverdale, a Beaverdale address that is good for marketing but does not want access off Beaver but rather their own parking lot off 41st Place. Beaverdale is a walking neighborhood with the shopping area being a walkable destination. He hopes Fareway will truly want to be a good member of the Beaverdale community but they need to remember they are in a community.

Jay Cox-Kozel 2702 Beaver Avenue, read submitted letter verbatim.

Austin Weitl stated not having an entrance on the Northeast corner helps with loss prevention and would like to point out the Ace Hardware across the street does not have much of the window glazing as well.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Francis Boggus stated he lives 4 blocks from this location and the reality is people shop on foot and by vehicle. He believes this would add a lot to the community and Fareway has proven a commitment to working with neighborhood.

Emily Webb stated her mother works for Fareway and can contest how good they treat her. She would agree Fareway has done a good job here and proven to be good to the communities they serve.

Greg Wattier state he is a huge supporter of a meat market in this area but does have some reservations when it comes to the site plan and architecture design. He believes they are trying to fit too much of a typical model in an urban setting. He understands loss prevention and the idea of not having 2 entries but maybe there could be 1 entry off Urbandale Avenue. He would also like to see the patio on Beaver as the current location further signals the parking lot and not the pedestrian activity.

Lisa Howard agreed with Greg Wattier’s comments and would also be opposed.

Will Page stated part of the problem is the staff recommendations wants a change to the look of what is supposed to be an entrance, to make it look more like an entrance but point in fact is not an entrance.

Greg Wattier stated he would like no glass or a lot more transparency along Beaver because using spangled glass would appear to be fake.

COMMISSION ACTION:

Francis Boggus made a motion for:

Approval of the requested Type 2 Design Alternative to allow one (1) entrance less than the two (2) required entrances on a primary frontage façade subject to this
entrance being open during all business hours and subject to a redesign of a more prominent two-way entrance to the satisfaction of the Planning Administrator.

Approval of the requested Type 2 Design Alternate to allow 41% transparency on the primary façade rather than the required 65% transparency along Beaver Avenue frontage so long as the 41% proposed has a transmittance factor of at least 60%, to the satisfaction of the Planning Administrator.

Approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

Motion Failed: 4-6 (Carolyn Jension, Greg Wattier, Abby Chungath, Will Page, Lisa Howard and Johnny Alcivar voted in opposition).

Will Page made a motion for:

Denial of the requested Type 2 Design Alternative to allow one (1) entrance less than the two (2) required entrances on a primary frontage façade subject to this entrance being open during all business hours and subject to a redesign of a more prominent two-way entrance to the satisfaction of the Planning Administrator.

Denial of the requested Type 2 Design Alternate to allow 41% transparency on the primary façade rather than the required 65% transparency along Beaver Avenue frontage so long as the 41% proposed has a transmittance factor of at least 60%, to the satisfaction of the Planning Administrator.

Denial of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

THE VOTE: 7-3 (Francis Boggus, Rocky Sposato and Emily Webb voted in opposition).

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Item 10

Request from IPE1031 REV353, LLC (owner) represented by Blake Pagliai (officer) for the following regarding the property located at 505 Sheridan Avenue.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Rezone property from “I1” Industrial District to “I2” Industrial District, to allow the existing property to be considered for a Conditional Use from the Zoning Board of Adjustment for an outdoor storage yard for portable toilets interpreted as an Intensive Fabrication and Production use. (ZON2021-00050)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is currently operating at the site and is under enforcement action. The proposed rezoning would allow them the ability to seek Conditional Use approval from the Zoning Board of Adjustment, which is necessary for the use to continue.

2. Size of Site: 1.22 acres.

3. Existing Zoning (site): “I1” Industrial District.

4. Existing Land Use (site): Office and storage.

5. Adjacent Land Use and Zoning:

   North – “I1”; Uses are commercial and light industrial in nature.
   South – “P2”; Use is the North High School campus.
   East – “I1”; Use is a vacant lot.
   West – “I1”; Uses include a restaurant and warehousing.

6. General Neighborhood/Area Land Uses: The subject property is located in an area that contains a mix of commercial, industrial and institutional uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood and within 250 feet of the Oak Park Neighborhood. The neighborhood associations were notified of the May 20, 2021 public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the May 20, 2021 public hearing) and May 10, 2021 (10 days prior to the May 20, 2021 public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the June 3, 2021 meeting was mailed to all neighborhood associations on May 28, 2021.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Highland Park Neighborhood and Oak Park Neighborhood notices were both mailed to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313 at they have a shared contact person.

   The applicant was required to conduct neighborhood outreach. They will be
available to provide a summary of that during the public hearing.

8. **Relevant Zoning History:** N/A.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.

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. **Zoning Enforcement History:** The applicant was issued a Zoning Violation Notice on August 27, 2020 for operating a business that does not comply with the “I1” District regulations. Staff has received multiple complaints regarding the operations during the enforcement process. Many of the complaints have focused on odors coming from the site. The Polk County Air Quality Division visited the site due to a complaint on February 22, 2001. They forwarded the concern to the City’s Neighborhood Inspection Division, as they believe it fell outside of their purview since it was more of an odor issue than an air quality issue.

2. **PlanDSM Creating Our Tomorrow:** The existing Industrial designation is described as follows:

   Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.

   Goal LU36 found on Page 17 of PlanDSM states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.” To implement this goal, the new Zoning Ordinance includes two industrial zoning districts. This recognizes the differences that light industrial and intense industrial uses have on surrounding areas. Section 134-3.6.2.C of the Zoning Ordinance also includes the following supplemental use regulations that apply to the proposed use:

   1. No part of the use may be a residential use.
   2. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting shall be emitted onto any adjoining property so as to create a nuisance.
   3. For intensive uses, the owner or occupant must provide the community development director with an acceptable written statement describing the use and the nature of any orders, gases, noise, vibration, and other
environmental impacts that may be generated by such use; and certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted on to any adjoining property so as to create a nuisance.

4. For intensive uses, the use shall be operated in strict conformance with the written statement provided to the community development director.

5. For intensive uses, all outdoor storage areas shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks.

6. Outdoor storage of inoperable or unsafe vehicles in quantities constituting a junk or salvage yard is prohibited.

The “I2” District is not appropriate in this location given the limited size of the property and its proximity to less intensive uses. The applicant has been operating their business at this location and has not been able to comply with the applicable supplemental use regulations, as they have not prevented odor from their site from negatively impacting neighbors. The proposed rezoning does not comply with the intent of PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.” Therefore, Staff recommends denial of the requested rezoning.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing PlanDSM future land use designation of Industrial but not in conformance with PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.”.

Part B) Staff recommends denial of rezoning the property to from “I1” Industrial District to “I2” Industrial District.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Eric Cannon 2727 SW Snyder Blvd, representing Snyder and Associates, stated he wanted to be clear that this site will only store clean portable restrooms, no human waste will be stored on site. They are willing to comply with any conditions that will be required.

CHAIRPERSON OPENED THE PUBLIC HEARING

Harry Shoemaker stated based on what they’ve experienced during the last year, the proposed use statement seems disingenuous. About a year ago, an excavator came in
to dig a hole for what seems to be a waste drop station as their place has been filled with sewage smells when the trucks are actively pumping waste. They are worried what else could be placed on this property if the current owner pulls out given I2 zoning allows for external impacts such as noise, vibration, odor, hours of operation and increase traffic. The Church to the West does not have a mailbox and didn’t receive notice for this proposal. Pastor Mark Reetz informed him they are also opposed as they do not want this type of business disrupting church activities.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Blake Pagliai 4300 N 14th Street, stated the underground tanks have been removed, no human waste will be stored on site. They will only store clean portable units on site.

Greg Wattier asked if this would be more of a conditional use from the Board of Adjustment rather than a rezoning?

Jason Van Essen stated it feels similar to a Board case because of the enforcement history. From a zoning regulation standpoint, the zoning enforcement officer determined the use requires I2 zoning and then would have to obtain conditional use approval from the Board of Adjustment after the rezoning. Staff believes the I2 zoning district does not make sense here.

Greg Wattier asked if the current zoning would allow them to store empty, clean units.

Jason Van Essen stated no, he would recommend continuing the item if the commission is inclined to resolve this with conditions and giving the zoning enforcement officer more time to explore the operations of the business.

**COMMISSION ACTION:**

Will Page made a motion for:

Part A) The proposed rezoning be found in conformance with the existing PlanDSM future land use designation of Industrial but not in conformance with PlanDSM Goal LU36 that states that the City should “develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.”.

Part B) **Denial** of rezoning the property to from “I1” Industrial District to “I2” Industrial District.

**THE VOTE: 10-0**
Item 12

Request from Storage Five Des Moines, LLC (owner) represented by Chris Catania (officer) for review and approval of a Public Hearing Site Plan “334 SW 8th Street” for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property at 334 Southwest 8th Street, to allow renovation and conversion of the existing Downtown General building for 708 self-service storage units with waiver of undergrounding the existing overhead utility lines required per Section 135-9.2.1(E).

(10-2021-7.88)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing building for use as a self-service storage facility, which triggers full compliance with current development standards. As part of the required Site Plan, they are asking for waiver of the underground utility requirement. Design alternative review criteria can be found in Section I, subparagraph 10, of this report. Staff analysis of the proposal can be found in Section II of this report.

2. Size of Site: 56,675 square feet (1.3 acres).


4. Existing Land Use (site): The subject property contains a 3-story commercial building and a parking lot.

5. Adjacent Land Use and Zoning:

   North - “DXR”; Use is the West Martin Luther King, Jr. Parkway corridor.
   South - “DX2”; Use is a multi-tenant flex commercial-warehouse building.
   East - “DXR”; Use is multiple household residential.
   West - “RX1”; Use is a multi-tenant flex commercial-warehouse building.

6. General Neighborhood/Area Land Uses: The subject property is located in the downtown along the south side of the West Martin Luther King, Jr. Parkway corridor. The surrounding area contains a mix of commercial, light industrial, and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (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. A
Final Agenda was mailed to recognized neighborhoods on May 28, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Des Moines mailings were sent to Sebastian Hamirani, 1400 Walnut Street, #413, Des Moines, IA 50309.

8. Relevant Zoning History: None.


10. Applicable Regulations: Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

   • Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

   • Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

      ➢ The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

      ➢ Zoning restrictions at the time of the proposal;

   • The city’s comprehensive plan;

   • The city’s plans for future construction and provision for public facilities and services; and

   • The facilities and services already available to the area which will be affected by the proposed site use;

   • Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of
the city will not be adversely affected;

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:

    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or
alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Overhead Utility and Service Line Burial Requirement: Section 135-9.2.1.E of the Planning and Design Ordinance requires that all electrical, telephone, and cable television transmission systems be placed underground whenever reasonably practical.

   There are existing overhead lines along the adjoining segment of SW 8th Street. MidAmerican Energy Company has provided an estimate that it could cost up to $115,000 to underground these lines. The proposed renovations have a building permit value of $1,900,000. The required utility underground work is equal to 6% of this value.

   Initial feedback from MidAmerican Energy noted that there is limited room in the existing right-of-way and that there are potential conflicts with existing undergrounded utilities. City staff has contacted MidAmerican Energy for clarification, as there appears to be adequate space between the property line and the overpass structure. Based on the information available at this time, Staff recommends denial of the request. The estimated cost to underground utilities is reasonable when compared to the total project budget.

II. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative as it is reasonably practical to require the undergrounding of all overhead electrical, telephone, and cable television transmission systems.

Staff recommends approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.
Chris Catania stated MidAmerican has told him this project isn’t feasible or highly unlikely due to the amount of utilities existing. The cost could also increase as they start the project. There is some argument about where the line would begin as it could encroach on the 88 parking spaces for the building and effect ADA parking spaces.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Greg Wattier stated he would rather have something in writing from MidAmerican so that facts would align.

Jason Van Essen stated they took the high end of the dollar figure provided by MidAmerican. When speaking with MidAmerican staff, it was unclear if the underground was not feasible or not. It specifics can be provided, staff would consider that.

Johnny Alcivar stated based on the information we have, it sounds like the applicant is concerned the percentage could go beyond the 6% estimate of project cost. He is inclined to move staff with a condition that it stay at 6% or below.

Jason Van Essen stated staff would be able to work with the applicant to solve the uncertainties given by MidAmerican.

Greg Wattier asked if we could remove the stipulation of 6% and just move staff recommendation?

Jason Van Essen asked if that would include the comment made regarding more documentation provided and satisfied by the planning administrator?

Greg Wattier stated he would offer that as a friendly amendment as well.

Glenna Frank asked for clarification on the motion.

Jason Van Essen stated that if the friendly amendment was approved, the applicant could provide additional documentation to the satisfaction of the planning administrator.

Glenna Frank stated we cannot have it both ways. It could either be denied and the applicant will have the opportunity to appeal the denial. If approved, there isn’t much the applicant can do if additional information is provided.

Greg Wattier asked if we could continue the item because this dollar amount is new information to the applicant.

Glenna Frank stated that would be better than trying to do a hybrid motion.
Chris Catania stated he would like to know the ramifications of continuing because he is trying to get the permits pulled and get the project started. MidAmerican will not start working without a permit.

Jason Van Essen stated the Commission could deny the request and he could move forward with the site plan and could come back with an amendment if they run into any obstacles. The reason for continuing would allow staff more time to gather definitive information around what physical obstacles MidAmerican could be facing.

Chris Catania stated he would rather have the denial and start working on the project because MidAmerican won’t do anything without permits.

COMMISSION ACTION:

Johnny Alcivar made a motion for:

**Denial** of the requested Type 2 Design Alternative as it is reasonably practical to require the undergrounding of all overhead electrical, telephone, and cable television transmission systems.

**Approval** of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

**THE VOTE:** 10-0

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**Item 13**

Request from DUUNTO LLC (owner) represented by Adam Sieren (officer) and Ryan Andreini (owner) for the following items regarding property at 524 Indianola Road, 711 Monona Avenue, and 713 Monona Avenue to be readdressed 550 Indianola Road:

A) Review and approval of a Preliminary Plat “Monona Townhomes” for subdivision of 0.84 acres of property into 18 Row Type Building lots and an Outlot.(13-2021-1.40)

B) Review and approval of a Public Hearing Site Plan “Monona Townhomes” for the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4(B) and 135-9.3.1(B) to allow construction of an 18-unit Household Living development with three Row Type buildings in the “RX1” Mixed Use District and “NX1” Neighborhood Mix District: (10-2021-7.93)
1) Allow a 39.69-foot front setback along Indianola Road that is 14.69 feet over the front build-to-zone which is between 12 and 25 feet for the “RX1” Mixed Use District per Section 135-2.12.3(A)(4).

2) Allow a 10-foot street-side setback from Monona Avenue for the southern and middle Row Type buildings which is 17 feet less than the required street-side build-to-zone within 5 of the 32-foot front setback averaging for the “NX1” Neighborhood Mix District per Section 135-2.12.3(A)(5).

3) Allow a 43-foot street-side setback from Monona Avenue for the northern Row Type building which is 28 feet over the street-side build-to-zone which is 10 to 15 feet per for the “RX1” Mixed Use District per Section 135-2.12.3(A)(5).

4) Allow a 7-foot setback from the south rear property line which is 23 feet less than the minimum required 30-foot rear setback per Section 135-2.12.3(A)(7).

5) Allow garages to be located on the front façades where the allowed garage entrance location is the rear or side façade only per Section 135-2.12.3(A)(11).

6) Waive the required minimum 20’ depth of occupied space on all full floors of the front façade required per Section 135-2.12.3(C)(17).

7) Allow parking in front portion of the building where parking within the principal building is only permitted fully in any basement and rear of all other stories behind required occupied space per Section 135-2.12.3(C)(18).

8) Reduce the required minimum transparency per each full story to 0% where a minimum 15% is required per Section 135-2.12.3(D)(19).

9) Allow EIFS as a major material on the 2nd and 3rd stories of the east and north façades and on the 2nd story of the south and west facades where allowed as a minor material only on 3rd story or higher of non-street facades with a maximum amount of 40% on any façade per Table 135-4.1-5. (Denied Type 1)

10) Waiver of undergrounding the existing overhead utility lines required per Section 135-9.2.1(E) and of providing galvanized metal street light pole and matching fixtures in the adjoining street rights-of-way.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct three (3) rowhouse buildings, each with six (6) units, for a total of 18 units. Each unit is proposed to be platted onto a single lot with the remainder area proposed as an outlot to be owned
by a homeowner’s association. Driveway accesses would be provided off Monona Avenue with connections to the alley for the two northern driveways. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 36,623 square feet (0.84 acres).

3. **Existing Zoning (site):** “RX1” Mixed-Use District and “NX1” Neighborhood Mix District.

4. **Existing Land Use (site):** The property contains three one household dwellings.

5. **Adjacent Land Use and Zoning:**
   - **North** – “I1”; Uses are vacant land along the trail and riverfront.
   - **South** – “NX1”; Uses are multiple household dwellings.
   - **East** – “RX1”; Uses are eating and drinking places.
   - **West** – “NX1”; Uses are one household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the south side of Indianola Road to the east of Monona Avenue. The surrounding area contains a mix of one household dwellings, multiple household dwellings, and commercial eating and drinking places.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Indianola Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (10 days prior to the public hearing) to the Indianola Hills Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Indianola Hills Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**
   - Neighborhood Mixed Use and Low Density Residential

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed
to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;
  - Zoning restrictions at the time of the proposal;
  - The city's comprehensive plan;
  - The city's plans for future construction and provision for public facilities and services; and
  - The facilities and services already available to the area which will be affected by the proposed site use;
  - Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
  - Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
  - Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
  - Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:
• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

• Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

  ➢ An evaluation of the character of the surrounding neighborhood, such as:

    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and

    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

• For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

  ➢ Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

  ➢ Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

  ➢ Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

  ➢ Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.
II. ADDITIONAL APPLICABLE INFORMATION

1. Building Configuration: The applicant is proposing the Rowhouse Building type. The property is split-zoned with the northern portion zoned RX1 and the southern portion zoned NX1. A public sanitary sewer with a 30-foot wide easement crosses through the property at the northwest corner. This easement, along with the curvature of the right-of-way at the northwest corner of the site, reduces the buildable area of the property.

The applicant is proposing to construct three (3) rowhouse buildings, each with six (6) units, with buildings oriented parallel to Indianola Road. Due to the steep topography of the hillside, the buildings are proposed to be set into the hill stepping up with the increase in grade for each building as you move south.

Each row building would have a driveway from Monona Avenue running east/west along the north side of each building. The driveways would provide access to the proposed 2-car garages in the lower level of the units with two stories of living space above, including balconies and outdoor living space at the north sides of the buildings oriented towards the downtown.

Staff supports the requested Type 2 Design Alternatives that are related to the proposed building configurations (items 1-7). The subject property has unique topography making it difficult to orient garages to the rear of the buildings. The driveways and garages for the southern two buildings would be hidden by the upper stories of the buildings to the north limiting their visibility from Indianola Road. The proposed landscape berm along Indianola Road would help to screen and separate the vehicular activity for the northernmost building from view. Staff recommends landscaping be added or relocated to the northern side of the fence. Also, the addition of a sidewalk connection from the units to Indianola Road would reinforce the pedestrian orientation that the ordinance intends to provide.

2. Transparency: The most recent building design includes entrances added on the western façade facing Monona Avenue for the westernmost units as well as windows on the 2nd and 3rd stories. Staff recommends that transparency be added to the entrance door, as well as an entrance feature to match the entrances on the north side such as a canopy. In addition, staff recommends that additional windows be added to the 2nd and 3rd stories to meet the minimum 15% required per each full story.

3. Façade Materials: The most recent building design includes brick wrapping around the 1st floor with EIFS on the upper two stories and a fiber cement board panels as an accent material on the north facade. EIFS is considered a Minor Façade Material. Table 135-4.1-5 limits the use of this material to 40% of the 3rd floor or higher on non-street facing facades. Staff recommends that the proposed EIFS be replaced with an approved major or minor material.

4. Overhead Utilities and Streetlights: Section 135-9.2.1.E of the Planning and Design Ordinance requires that all electrical, telephone, and cable television
transmission systems shall be placed underground whenever reasonably practical. Section 135-8.2.1.B requires that all lighting in the public right-of-way shall be provided in the location, intensity, height and quantity as approved by the city engineer. There are two existing wood pole streetlights with overhead lines along the Indianola Road frontage. There are also existing overhead lines along the east side of Monona Avenue providing service to the houses to the west and apartments to the south. The proposed service lines to serve the new townhouses would be underground.

Staff does not believe that it would be reasonably practicable to require all utilities to be relocated underground as the overhead lines along Monona Avenue are providing service to properties that the developer does not own.

However, staff believes that it would be reasonably practicable to require undergrounding of the overhead lines feeding the two existing streetlights along Indianola Road, and the existing wood poles should be replaced with galvanized metal street light poles and matching fixtures.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the Preliminary Plat “Monona Townhomes” for subdivision of 0.84 acres of property into 18 Row Type Building lots and an Outlot, subject to compliance with all administrative review comments from the City’s Permit & Development Center.

Part B) Staff recommends denial of the requested Type 2 Design Alternatives for items 8, 9 and 10.

Staff recommends approval of an amended Type 2 Design Alternative request to waive the undergrounding of existing overhead utility lines, and provision of a galvanized metal street light pole and matching fixture along Monona Avenue; approval of the requested Type 2 Design Alternatives for items 1-7; and approval of the Public Hearing Site Plan, all subject to the following conditions:

1. Provision of landscaping along the street-side of the frontage buffer fence to the satisfaction of the Planning and Urban Design Administrator.

2. Provision of a sidewalk connection from the buildings to the public sidewalk along Indianola Road to the satisfaction of the Planning and Urban Design Administrator.

3. Provision of door openings that front Monona Avenue that include transparency and an entry feature such as a canopy to match the doors facing north.

4. Revision of the site plan and building elevations to comply with all administrative review comments.
SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Daniel Southwick 3501 104th Street, Urbandale representing Bishop Engineering stated there is a steep hill they are building into that is limiting the connections. Since this was going to be considered on the consent agenda, he will wait for any opposition and go from there.

CHAIRPERSON OPENED THE PUBLIC HEARING

Arnold Willis 1974 Senate Street, stated he is concerned about water runoff as they currently have 0.84 acres with paving taking 76% of that.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Johnny Alcivar asked if there is additional evergreens or shrubbery proposed along the alley? He would like to avoid a long-term problem with neighbors on the other side of the alley.

Jason Van Essen stated there seems to be some space for something that is narrow in growth pattern.

Daniel Southwick stated there will be water detention provided onsite per the typical requirements by the City of Des Moines. They will have intakes at the edges of each drive and one in the center of the northern drive. They are willing to add extra evergreens or any additional sound barrier along the alley way.

COMMISSION ACTION:

Rocky Sposato made a motion for:

Part A) Approval of the Preliminary Plat “Monona Townhomes” for subdivision of 0.84 acres of property into 18 Row Type Building lots and an Outlot, subject to compliance with all administrative review comments from the City’s Permit & Development Center.

Part B) Denial of the requested Type 2 Design Alternatives for items 8, 9 and 10.

Approval of an amended Type 2 Design Alternative request to waive the undergrounding of existing overhead utility lines, and provision of a galvanized metal street light pole and matching fixture along Monona Avenue; approval of the requested Type 2 Design Alternatives for items 1-7; and approval of the Public Hearing Site Plan, all subject to the following conditions:

1. Provision of landscaping along the street-side of the frontage buffer fence to the satisfaction of the Planning and Urban Design Administrator.
2. Provision of a sidewalk connection from the buildings to the public sidewalk along Indianola Road to the satisfaction of the Planning and Urban Design Administrator.

3. Provision of door openings that front Monona Avenue that include transparency and an entry feature such as a canopy to match the doors facing north.

4. Revision of the site plan and building elevations to comply with all administrative review comments.

5. Additional plantings along the East alley way be provided to the satisfaction of the planning administrator.

**THE VOTE: 10-0**

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**Item 14**

Request from Zuleyma Mendez and Luis Garcia (owners) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 1640 East University Avenue, to allow construction of a 140-square foot Gazebo Accessory Building Type and a 80-square foot Outbuilding Accessory Building Type without a principal structure on the property as required per Section 135-2.22.2(C).

(10-2021-7.106)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant operates a food truck on the subject property. They are proposing to construct a 10-foot by 14-foot gazebo over a seating area. The applicant is also proposing to add an 80-square foot pre-fabricated resin shed for on-site storage.

2. **Size of Site:** 100 feet by 140 feet (0.321 acres).

3. **Existing Zoning (site):** “MX1” Mixed Use District.

4. **Existing Land Use (site):** The property includes a paved parking area that serves a mobile food vendor.

5. **Adjacent Land Use and Zoning:**
6. **General Neighborhood/Area Land Uses:** The subject property is located along a primary arterial corridor that includes a mix of commercial and retail uses as well as several churches. Duke Williams Stadium and Hiatt Middle School are located to the west. To the north is a residential area that consists primarily of one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Martin Luther King Jr. Park Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested honorary street renaming. A Final Agenda was mailed to all the recognized neighborhood associations on May 28, 2021.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Martin Luther King Jr. Park Neighborhood mailings were sent to Charice Williams, 1434 E. 18th Street, Des Moines, IA 50316.

8. **Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**

   Neighborhood Mixed Use

10. **Applicable Regulations:**

Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;
- The city’s plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;
- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.
- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the
applicable request and independently of prior requests from the same applicant, and may include the following criteria:

- An evaluation of the character of the surrounding neighborhood, such as:
  - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
  - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;

- The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Transient Merchants: Section 78-61 of the City Code defines a transient merchant as “a person, principal or agent who engages in a merchandising business from a temporary location or structure in the city, and who, for the purpose of carrying on such business, hires, leases or occupies any land, structure, trailer or truck for the exhibition and sale of such goods, wares or merchandise and including the sale of any article, food, beverage, fruit, vegetable or farm product; provided however that the following types of sales activities shall not constitute sales by a transient merchant.”
2. **Accessory Structures:** Per Section 135-2.22, accessory structures are only allowed on lots in connection with a principal structure.

3. **Staff Analysis:** Staff believes that a Gazebo Accessory Building Type and an Outbuilding Accessory Building Type should only be allowed on a property with a principal structure. Mobile food vendors are transient merchants and are required to operate from temporary locations. The addition of a permanent gazebo and a shed is not in keeping with the intent of Chapter 78 of the City code that regulates transient merchants, nor Section 135-2.22 of the Zoning, Planning and Design code that regulates allowed accessory structures.

**II. STAFF RECOMMENDATION**

Staff recommends denial of the requested Type 2 Design Alternative to allow construction of a 140-square foot Gazebo Accessory Building Type and an 80-square foot Outbuilding Accessory Building Type on a property without a principal structure. Staff recommends approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

Will Page asked what the current shed is sitting on?

Jason Van Essen stated he wasn’t sure, it does appear to be sitting on a wood pallet.

Johnny Alcivar asked if this property has received any complaints or prior violations?

Jason Van Essen stated it did come through the planning process because of an enforcement issue but doesn’t know the history of that.

Zuleyma Mendez 1640 East University Avenue, stated the shed is not sitting on a slab of concrete now as it’s there temporarily. This request would be more of a pergola kit as it is all wood and open at the top. They want this sitting area to provide a shaded area for their guest and provide safety as people drive through the parking lot. They believe this would look a lot better than a pop up tent that could potentially blow away in the wind.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Johnny Alcivar asked if it’s better to have a non-permanent structure if the principal use is removed from the location?
Jason Van Essen stated the pergola design is less impactful than a large gazebo.

Abby Chungath asked if the pergola is approved, are there stipulations around how it would be secured to the ground?

Jason Van Essen stated he would need to follow up with the building code staff.

Greg Wattier stated he remembers the building department requiring footings underneath outside coolers that restaurants had.

Jason Van Essen stated he does know an accessory building over 120-feet would trigger a building permit. If the commission does approve it, they will need to comply with building code one way or another.

Johnny Alcivar stated this request is reasonable as they are trying to make the location more user friendly and providing safety of their customers.

COMMISSION ACTION:

Johnny Alcivar made a motion for approval of the requested Type 2 Design Alternative to allow construction of a 140-square foot Gazebo Accessory Building Type and an 80-square foot Outbuilding Accessory Building Type on a property without a principal structure.

Approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

THE VOTE: 10-0

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Item 15

Request from Granite Castle, LLC (Owner) represented by Ana Lisia Romo (officer) for review and approval of a Public Hearing Site Plan Amendment for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 4552 E 50th Street to remove the public sidewalk shown on the approved Site Plan and allow issuance of Final Certificate of Occupancy for a Fabrication and Production facility with waiver of the required public sidewalk installation per Section 135-8.5.2. (10-2021-7.114)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant is proposing to eliminate the public sidewalk along the northern property line, which is required to be constructed in accordance with the recently approved site plan. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 64,114 square feet (1.47 acres).

3. **Existing Zoning (site):** “I1” Industrial District.

4. **Existing Land Use (site):** The property is being developed for use as a granite countertop manufacturing business.

5. **Adjacent Land Use and Zoning:**
   - **North:** “PUD”; Use is a fuel station/convenience store (Kum & Go).
   - **South:** “I1”; Use is a self-service storage use (Broadway Storage).
   - **East:** “I1”; Uses are one-household dwellings.
   - **West:** “I1”; Use is a self-service storage use (Broadway Storage).

6. **General Neighborhood/Area Land Uses:** The subject property is located along the south side of East Broadway Avenue to the west of the Highway 69 bypass.

7. **Applicable Recognized Neighborhood(s):** The subject property is not within 250 feet of any recognized neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 24, 2021 (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 agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division.

8. **Relevant Case History:** On November 20, 2019, Site Plan 10-2020-7.40 was administratively approved to allow development of the site with a granite countertop manufacturing business. This site plan requires provision of a public sidewalk along the northern property line.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Business Park.

10. **Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:
• Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

• Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
  ➢ The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;
  ➢ Zoning restrictions at the time of the proposal;

• The city’s comprehensive plan;

• The city’s plans for future construction and provision for public facilities and services; and

• The facilities and services already available to the area which will be affected by the proposed site use;

• Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

• The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property,
including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the comprehensive plan.

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  ➢ An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  
- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  
  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  
  ➢ Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  
  ➢ Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
  
  ➢ Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
  
  ➢ Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Traffic and Circulations Standards: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.”
2. **Staff Analysis:** On November 20, 2019, Site Plan 10-2020-7.40 was administratively approved to allow development of the site with a granite countertop manufacturing business. This site plan requires provision of a public sidewalk along the northern property line. This requires provision of a 5-foot wide sidewalk along the property’s 243 feet of street frontage. The applicant has requested waiver of this requirement. There is existing walk along East 50th Street but not along the East Broadway frontage road.

Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. MoveDSM designates the adjoining segment of East Broadway Avenue as a Priority Level 1, which is the highest priority for sidewalk gap infill. The grade contours along East Broadway Avenue would allow for sidewalk to be constructed in this area and there is some existing network along East 50th Street that the subject segment would connect to. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to a fully developed sidewalk network.

III. **STAFF RECOMMENDATION**

Staff recommends denial of the requested Type 2 Design Alternative and Public Hearing Site Plan Amendment to waive the public sidewalk requirement along East Broadway Street.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Johnny Alcivar asked if this was on a bus route?

Bert Drost asked Jason Van Essen to confirm the bus route using Des Moines maps.

Carol Lorenz representing Granite Castle stated since there are no sidewalks east or west of the property along the frontage road, it seems like they shouldn’t have to put a sidewalk in. The one on East 50th that run to the bus stop, the bus stop is on Broadway not the frontage road. There is no pedestrian activity from the intersection at Broadway and Hubbell to the Highways 65 overpass, this sidewalk would be out there by itself.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jason Van Essen confirmed this was a bus route.
COMMISSION ACTION:

Johnny Alcivar made a motion for denial of the requested Type 2 Design Alternative and Public Hearing Site Plan Amendment to waive the public sidewalk requirement along East Broadway Street.

THE VOTE: 6-4 (Steve Wallace, Carolyn Jension, Greg Wattier and Rocky Sposato voted in opposition).

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Committee and Director’s Reports:

Bert Drost stated we will be returning to in person meetings in August.

Meeting adjourned at 8:53pm