The June 17, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 870 8820 9097


P&Z ABSENT: Will Page

STAFF PARTICIPANTS: Jason Van Essen, Bert Drost, Tyler Hall and Judy Parks-Kruse

Carolyn Jenison made a motion to approve the June 3, 2021, Plan and Zoning Commission meeting minutes. Motion carried.

Dory Briles 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.

Jann Freed made a motion to approve consent agenda items #1, #2, #3, #4, #5, #6 and #7. Motion Carried 12-0.

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from 3524 6th Avenue, LLC (owner), represented by Joseph Cordaro (officer), for vacation of a 5.50-foot by 50.61-foot segment of Air Rights along the west side of 6th Avenue adjoining property located at 3524 6th Avenue, to allow continued encroachment of existing 2nd and 3rd Floor bay window projections with the renovation of the building. (11-2021-1.09)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacations would facilitate renovation of the existing building.

2. Size of Site: The requested segments of Right-of-Way encompass a total 278 square feet of area.

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

4. Existing Land Use (site): The subject areas consist of public street Rights-of-Way.

5. Adjacent Land Use and Zoning:
North – “MX1”; Use is multiple-tenant retail building.

South – “MX1”, Use is multi-family residential building.

East – “MX1”; Use is a multiple-tenant retail building.

West – “MX1”, Use is multi-family residential building.

6. General Neighborhood/Area Land Uses: The applicant’s property is rectangular shaped and bordered by Euclid Avenue to the north, 6th Avenue to the east, and an alley to the south. The surrounding area consists of a mix of residential and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject areas is located within the recognized Pak Park neighborhood association and is adjacent to the Highland Park neighborhood association. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior) to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way.

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. There was not a mailing address on file for the Highland Park Neighborhood at the time of the mailing.

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. Utilities: Not applicable.

2. Traffic/Access: The requested vacations would not negatively impact access to private properties or traffic patterns.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested Right-of-Way vacation.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the requested Right-of-Way vacation.

THE VOTE: 12-0

Item 2

Request from Des Moines Climate Controlled Self Storage, LLC (owner), represented by Mark Bockenstadt (officer), for vacation of the north/south segment of alley Right-Of-Way east of, and adjoining, the property located at 1106 Scott Avenue in the block bounded by East M.L. King Jr. Parkway on the north, Scott Avenue on the south, Southeast 12th Street on the east, and Southeast 10th Street on the west, to allow the property to be assembled with adjoining property for purposes of commercial redevelopment.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would facilitate the assemblance of property for commercial development.

2. Size of Site: The requested segments of Right-of-Way encompass a total 2,236 square feet of area.


4. Existing Land Use (site): The subject areas consist of public alley rights-of-way.

5. Adjacent Land Use and Zoning:
6. **General Neighborhood/Area Land Uses:** The applicant’s property, which consists of multiple parcels split by the alley, is rectangular-shaped and bordered by SE 12th Street to the east and Scott Avenue to the south. The surrounding area consists of a mix of residential and commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject areas is located within the recognized Historic East Village neighborhood association. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior) to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way.

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 Historic East Village Neighborhood Association mailing were sent to Luke Dickens, 3311 54th Street, Des Moines, IA 50310.

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

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

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. **Utilities:** While no utilities have been identified within the requested Right-of-Way, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested right-of-way vacation subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the requested right-of-way vacation subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

THE VOTE: 12-0

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Item 3

Request from JOPPA Cheatom Park, LLC (owner), represented by Joe Stevens (officer), for vacation of the north/south segment of alley Right-of-Way west of, and adjoining, the property at 1010 13th Street, running north from Interstate 235/MacVicar Freeway to the east/west alley in the block bounded by Laurel Street on the north, Interstate 235/MacVicar Freeway on the south, 13th Street on the east, and 14th Street on the west, to allow the property to be assembled with adjoining parcels owned by the applicant.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would allow the 15-foot wide strip of Right-of-Way to be assembled with the adjacent properties, which are being developed by Joppa for community garden and two-household dwelling uses.

2. Size of Site: 15 feet by 83 feet (1,245 square feet).

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


5. Adjacent Land Use and Zoning:
6. **General Neighborhood/Area Land Uses:** The subject property is in a residential area immediately to the north of the freeway.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Cheatom Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public right-of-way.

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 Cheatom Neighborhood mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314.

8. **Relevant Zoning History:** On February 22, 2021, the City Council adopted Ordinance 15,981 to rezone the property adjoining to the east from “N5” District to “N5-2” District in order to allow a two-household dwelling to be constructed on this site.

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 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. **Streets/Sidewalk:** The requested vacation would have a minimal impact on the existing street network, as the right-of-way is undeveloped and is not required for access to any properties.

2. **Utilities:** There is an existing sanitary sewer that crosses requested right-of-way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested vacation subject to reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant’s expense.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the requested vacation subject to reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant’s expense.

THE VOTE: 12-0

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Item 4

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 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 1027 Pennsylvania Avenue, to allow construction of a House D Building Type with in an “NX1” Neighborhood Mix District, to allow waiver of the required garage with provision of a 120-square foot storage shed per Section 135-2.16.3(E)(5).

(BLD2021-0061)

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: 53 feet by 118 feet (6,254 square feet).

3. Existing Zoning (site): “NX1” Neighborhood District.

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

5. Adjacent Land Use and Zoning:
North – “NX1”; Uses are one-household dwellings.
South – “NX1”; Uses are one-household dwellings.
East – “NX1”; Uses are one-household dwellings.
West – “NX1”; Uses are Pennsylvania ROW and one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located generally between East University Avenue and Interstate 235 in a residential area that consists primarily of one-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is located in Capitol Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior to the public hearing) to the Capitol Park 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 Capitol Park Neighborhood mailings were sent to Christopher Civitate, 1346 E 12th Street, Des Moines, IA 50305.

8. Relevant Zoning History: None.


10. Applicable Regulations: 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 the minimum height by 10.875 inch for ground story per Section 135-9.2.3.A.5.a and for upper story per Section 135-9.2.3.A.5.b.

   b. Reduce minimum house size by 8% (104 sq ft) per Section 135-9.2.3.A.8.

2. Garage Requirement: There are 41 parcels located within 250 feet of the subject property. Staff found that 24 (58.53%) 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. A total of 22 (57.89%) of the 38 residential use 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 east, west across Pennsylvania Ave and south are built with a garage. The applicant is proposing to install a 20-foot by 24-foot concrete parking pad in the east rear yard to be accessed from the alley. A 10-foot by 12-foot (120 square foot) shed is proposed between the back of the house and the concrete pad in the rear yard.

   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 sit on a concrete slab.

3. Staff Analysis: 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 just under half of the houses in the 250-feet radius are built without garages. The proposed concrete pad 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 Alternative and the proposed Public Hearing Site Plan, subject to the following conditions:

1. Compliance with all administrative review comments.

2. Any future garage built in the rear yard must comply with all building and fire codes, and zoning code requirements.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the requested Type 2 Design Alternative and the proposed Public Hearing Site Plan, subject to the following conditions:

1. Compliance with all administrative review comments.

2. Any future garage built in the rear yard must comply with all building and fire codes, and zoning code requirements.

THE VOTE: 12-0

Request from Todd Albracht and Sarah Fiscus-Albracht (owners) for review and approval of a Public Hearing Site Plan 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 1506 45th Street, to allow construction of a 20-foot by 20-foot detached garage within the front yard of the existing single-household dwelling in an “N5” Neighborhood District where not allowed per Section 135-2.22.1(D)(1).

(BLD2021-01330)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 20-foot by 20-foot detached garage in the front yard. The house is set back at the rear of the parcel preventing the applicant from building the garage behind the house.

2. Size of Site: 50 feet by 140 feet (7,000 square feet).

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

4. Existing Land Use (site): The property is currently a one-household dwelling.

5. Adjacent Land Use and Zoning:
   
   North – “N5”; Uses are one-household dwellings.
   South – “N5”; Uses are one-household dwellings.
   East – “N5”; Uses are one-household dwellings.
   West – “N5”; Uses are one-household dwellings.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Waveland Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior to the public hearing) to the Waveland Park 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 Waveland Park Neighborhood mailings were sent to Anna Mason, 1434 44th Street, Des Moines, IA 50311.

8. Relevant Zoning History: None.


10. Applicable Regulations: Section 135-2.16.3.A.2 states that for House Type D the required accessory building shall be located in the side or rear yard.
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);

  ➢ 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. Garage Location: Due to the location of the principal dwelling at the rear of the parcel, the applicant does not have the ability to construct the detached garage in the side or rear yards as required by code. The only option is to construct the garage in the front yard.

2. Staff Analysis: The applicant is proposing to construct a 20-foot by 20-foot detached garage in the front yard. There are other examples in this neighborhood of the detached garage being built in the front yard, such as 1530 46th Street. Staff believes that the requested design alternative 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 to place the garage in the front yard.

II. STAFF RECOMMENDATION

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

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

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

THE VOTE: 12-0

Request from MidAmerican Energy Company (successor to Iowa Power & Light Company) (owner), represented by Ryan Stansbury (officer), for the following regarding property located at 2399 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 Business Park to Industrial. (21-2021-4.18)

C) Review and approval of a Large-Scale Development Plan for the 15.45 acres for Vehicle Maintenance use and Repair and Outdoor Equipment and Materials Storage use.

D) Rezone property from “EX-V” Mixed Use District to “I2” Industrial District to allow modification of the existing electrical utility service center and to allow for request of a Conditional Use from the Zoning Board of Adjustment for above-ground storage of flammable liquids, which is interpreted as an Intensive Fabrication and Production use, and for a Junk and Salvage Yard use. (ZON2021-00069)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow modification of the existing electrical utility service center and provide the opportunity for the applicant to request a Conditional Use approval from the Zoning Board of Adjustment for above-ground storage of flammable liquids.

2. Size of Site: 13.65 acres.

3. Existing Zoning (site): “EX-V” Mixed Use District. Vehicle sales and rental uses are prohibited in zoning districts with the “V” extension.


5. Adjacent Land Use and Zoning:

   North – “N2b”; Use is undeveloped land.
   South – “EX-V”; Use is undeveloped land.
   East – “EX”; Use is undeveloped land.
   West – “EX-V”; Uses are one household dwellings and undeveloped land.

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 public hearing by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 28, 2021 (20 days prior to the original public hearing) and on June 7, 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.

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 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. STAFF RECOMMENDATION

The applicant if reconsidering their project and has requested an indefinite continuation. A new notice will be sent to neighbors within the notice boundary at such time that the application moves forward.

Staff recommends approval of the request to continuance the item indefinitely.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the request to continuance the item indefinitely.

THE VOTE: 12-0

Item 7

Request from Larson Enterprises (owner) represented by John Fitzgerald (officer) for the following regarding the property located at 1600 East Army Post 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 Business Park to Community Mixed Use. (21-2021-4.19)

C) Rezone property from “EX” Mixed Use District to “CX” Mixed Use District, to allow an expansion of the existing Large Format Retail use. (ZON2021-00071)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to enclose the existing loading dock located on the exterior of the rear of the building and pave the existing gravel fire lane. The property is currently zoned “EX” District, which is intended for business park development and does not allow retail uses. The proposed rezoning and land use amendment are necessary to allow for the requested expansion of the building structure and additional pavement. Any future construction or site improvements would be subject to compliance with a Site Plan.

2. Size of Site: 3.456 acres.


4. Existing Land Use (site): The subject property consists of a retail sales location for Slumberland and acts as a metro distribution center.

5. Adjacent Land Use and Zoning:

   North – “CX-V” & “N1a”; Uses are multi-tenant commercial center and one-household dwelling units.

   South – “EX”; Uses are office/warehousing and undeveloped land used for Crop Production.

   East – “EX” & “N1a”; Uses are one-household dwelling units.

   West – “EX”; Use is office and retail.

6. General Neighborhood/Area Land Uses: The subject property is located near the intersection of Southeast 14th Street/U.S. Highway 69 and East Army Post Road. The area contains a mix of commercial, industrial, agricultural and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Easter Lake Area. The neighborhood associations May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 28, 2021 (20 days prior to the
public hearing) and June 7, 2021 (10 days prior to the 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.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Easter Lake Area Neighborhood Association mailings were sent to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

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

8. Relevant Zoning History: None.


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 “Business Park” on the Future Land Use Map. 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 or no adverse effect on surrounding properties.

   The applicant is proposing to rezone the property from “EX” District to “CX” District. The Zoning Ordinance states that “‘CX’ is intended for nodes and corridors with larger-scale single-use commercial accommodating higher levels of vehicular traffic than MX districts and more intensive commercial uses, especially with outdoor sales and storage”.

   The proposed “CX” District zoning requires the future land use designation to be amended from “Business Park” to “Community Mixed Use” in order to find the proposed rezoning in conformance with PlanDSM. Staff believes that the requested
amendment to designate the future land use to Community Mixed Use would also be necessary.

PlanDSM describes Community Mixed Use as follows:

**COMMUNITY MIXED USE**

Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

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). Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review before the existing use can be expanded.

3. **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 requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Business Park.

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 Business Park to Community Mixed Use.

Part C) Staff recommends approval of the proposed rezoning of the subject property from “EX” Mixed Use District to “CX” Mixed Use District.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Jann Freed made a motion for:

Part A) The requested rezoning is not in conformance with the existing PlanDSM future land use designation of Business Park.
Part B) **Approval** of the requested amendment of the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Business Park to Community Mixed Use.

Part C) **Approval** of the proposed rezoning of the subject property from “EX” Mixed Use District to “CX” Mixed Use District.

**THE VOTE:** 12-0

(Lisa Howard arrived at 6:15)

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**NON-CONSENT AGENDA PUBLIC HEARING ITEMS**

**Item 8**

Request from Zaccary Miller and Mason Terwilliger (owners) 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 846 East Broad Street, to retain a detached garage with the rear yard that was built with metal exterior material along with an existing gravel driveway in addition to a second paved driveway added in conjunction with the garage.

A) Allow a second driveway in an "N3a" Neighborhood District for a House Type B where only one driveway is permitted per Section 135-2.14.3(A)(11).

(SAP2021-00097)

B) Allow a detached garage with metal siding and roof material that does not match the existing exterior materials of the principal dwelling per Section 135-2.22.1(D)(7).

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant has an existing driveway from East Broad Street that provides vehicle parking and access to the attached garage on the front of the house. The applicant is requesting to construct a second paved driveway that would be used to access the rear yard, including two detached garages. The rear yard contains two detached garages, including one that was constructed sometime after March 31, 2020 without a building permit. The new garage was identified during a site visit before the May 6, 2021 meeting. As a result, the item had to be continued so staff could determine if any relief was needed.
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**: 67,880 square feet.

3. **Existing Zoning (site)**: “N3a” Neighborhood District.

4. **Existing Land Use (site)**: Low Density Residential.

5. **Adjacent Land Use and Zoning**:
   - **North**: “N3a”; Low Density Residential.
   - **South**: “N3a”; Low Density Residential.
   - **East**: “N3a”; Low Density Residential.
   - **West**: “N3a”; Low Density Residential.

6. **General Neighborhood/Area Land Uses**: The subject property is located in a predominately low density residential neighborhood.

7. **Applicable Recognized Neighborhood(s)**: The subject property is in the Indianola Hills Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on May 28, 2021 and the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 28, 2021 (20 days prior to the hearing) and on June 7, 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 Indianola Hills Neighborhood Association notices were mailed to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

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:

  ➢ 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. Zoning Enforcement History: The applicant has illegitimately been operating an business at the property that includes the storage of trucks, trailers and equipment.
They have indicated that they have secured a commercial location and would be removing the equipment from the property. Zoning Enforcement staff have requested that they provide a lease or purchase agreement confirming that they have secured such a location. At this time, the requested information has not been provided. An inspector visited the site on June 10, 2021 and did not observe any large trucks, trailers, or equipment on the property.

2. **Type 2 Design Alternatives Requested:** The first design alternative requested is to allow two residential driveways and drive approaches where only one driveway is permitted. Section 135-2.14.3(A)(11) of the City Code allows for one driveway per lot. The applicant has an existing driveway from East Broad Street that provides vehicle parking and access to the attached garage on the front of the house. The applicant is requesting to construct a second paved driveway that would be used to access the rear yard, including access to the two detached garages.

   The second design alternative requested is to allow a detached garage to have metal siding and metal roof material that does not match the existing exterior materials of the principal dwelling, per Section 135-2.22.1(D)(7) of the City Code. This garage was constructed without a permit. The accessory structure has since been inspected and deemed to meet Building Code requirements. However, the metal siding and roof material does not meet the requirements of Chapter 135 of the Municipal Code, as it does not match the house that has lap siding and asphalt shingles.

3. **Staff Analysis:** 846 East Broad Street is a large parcel. The applicant wishes to construct a second driveway for access to the rear yard, which contains two detached garages. Due to the grade change on the property, a separate driveway is reasonably necessary. Staff supports the request so long as the applicant complies with the conditions listed in Section III of this report.

   The garage was constructed without a permit sometime after March 31, 2020. The metal siding and roofing does not comply with City Code Chapter 135, as it does not match the house. Staff is not aware of a residential garage that has been approved since the Chapter 135 was adopted that was allowed to have metal siding and roofing. The roofing does match that on the older garage. Staff believes that lap siding needs to be provided that matches the house and other garage. The property is located in a residential area and the garage should have a residential character.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the requested Type 2 Design Alternative to install a second driveway to provide vehicle access to the rear yard subject to the following conditions:

1. Determination by the Zoning Enforcement Officer that all code violations have been resolved.
2. All vehicular maneuvering and parking areas on the property shall be paved in accordance with a site sketch to be submitted to the Planning and Urban Design Administrator for review and approval. Pavement shall be kept to the minimum amount necessary.

Part B) Staff recommends denial of the requested Type 2 Design Alternative to allow a detached garage with metal siding and metal roofing material that does not match the existing exterior material of the principal dwelling.

Staff recommends approval of the Public Hearing Site Plan and issuing a Type 2 Design Alternative to allow a detached garage with metal roofing subject to the following conditions:

1. The garage shall be sided with lap siding that matches the existing house.

2. Compliance with the Building Code with issuance of all necessary permits by the City’s Permit and Development Center.

3. Compliance with all administrative review comment.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Zaccary Miller, 846 East Broad Street, stated the “Premium Tree Service” truck presented in the photographs is not his, he owns Central Tree Pros. The new garage was constructed in the back and is not visible from the street. He sent the zoning inspector a copy of his lease agreement for a commercial site that he intends to move to. The metal roof on the older garage was permitted and matches the roof on the new garage.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Rocky Sposato made a motion for:

Part A) Approval of the requested Type 2 Design Alternative to install a second driveway to provide vehicle access to the rear yard subject to the following conditions:

1. Determination by the Zoning Enforcement Officer that all code violations have been resolved.
2. All vehicular maneuvering and parking areas on the property shall be paved in accordance with a site sketch to be submitted to the Planning and Urban Design Administrator for review and approval. Pavement shall be kept to the minimum amount necessary.

Part B) **Denial** of the requested Type 2 Design Alternative to allow a detached garage with metal siding and metal roofing material that does not match the existing exterior material of the principal dwelling.

**Approval** of the Public Hearing Site Plan and issuing a Type 2 Design Alternative to allow a detached garage with metal roofing subject to the following conditions:

1. The garage shall be sided with lap siding that matches the existing house.

2. Compliance with the Building Code with issuance of all necessary permits by the City’s Permit and Development Center.

3. Compliance with all administrative review comment.

**THE VOTE:** 13-0

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**Item 9**

Request from JP Morgan Chase Bank N.A. (purchaser), represented by Kenneth Collander (officer), for review and approval of a Public Hearing Site Plan "Chase Bank on Ingersoll" 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 3101 Ingersoll Avenue and 608 31st Street, to allow new construction of a Storefront building type for a Financial Service use. The subject property owner is 3101 Ingersoll, LLC (owner) represented by Ronald Daniels (officer). (10-2021-7.87)

A) Allow for a primary frontage setback of 13 ft. where the primary frontage build-to-zone is 0-5 ft. per Section 135-2.5.3.A.3.

B) Allow for a 2-story building where the minimum building height is three (3) stories per Section 135-2.5.3.B.10.

C) Allow for a primary frontage entryway that is not recessed where the primary frontage entryway is required to be recessed between 3 ft. and 8 ft. from the portion of the primary frontage façade closest to the street per Section 135-2.5.3.D.21.

D) Allow for two driveway accesses off the non-primary street where one driveway off each non-primary street is allowed per Section 135-2.5.3.A.9. (Denied Type 1).
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow construction of a new 2-story bank (Storefront building type for a Financial Service use) along Ingersoll Avenue, with a surface parking lot located to the north of the building.

2. Size of Site: 16,409 square feet (0.38 acres).


4. Existing Land Use (site): The subject property contains a 2-story office building that would be demolished and a surface parking lot.

5. Adjacent Land Use and Zoning:

   North – “RX1” Use is an undeveloped parcel.

   South – “MX2”, Uses are Ingersoll Avenue and a 1-story commercial building (Ode Marketing Group and Snavely Family Dentistry).

   East – “MX2”, Uses are 31st Street and a 2-story commercial building (Two Rivers Bank).

   West – “MX2”, Use is an undeveloped parcel.

6. General Neighborhood/Area Land Uses: The subject property is located on the northwest corner of the Ingersoll Avenue and 31st Street intersection. The surrounding area contains a mix of commercial and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located within the North of Grand Neighborhood and within 250 feet of the Woodland Heights Organization Neighborhood. The neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on May 28, 2021 and the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior to the 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 requested rezoning.

   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 North of Grand Neighborhood notices were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312 and the Woodland Heights Organization Neighborhood mailings were sent to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.
8. Relevant Zoning History: NA.


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 INFORMATION

1. Design Alternatives Requested: The following Type 2 Design Alternatives are requested:

   A) Allow for a primary frontage setback of 13 ft. where the primary frontage build-to-zone is 0-5 ft. per Section 135-2.5.3.A.3. The southern property line along Ingersoll Avenue frontage is angled. Therefore, while the southwest corner of the building would be within 5 feet of the front property line, the southeast corner would be within 13 feet. Staff is supportive of this Type 2 Design Alternative since the angled property line creates a condition that makes strict compliance with applicable regulations impractical or undesirable.

   B) Allow for a 2-story building where the minimum building height is three (3) stories per Section 135-2.5.3.B.10. The proposed building would be 2 stories in height. However, given the sloping topography of the site, the building would appear to be 3 stories on the rear (north) façade. Staff is supportive of this Type 2 Design Alternative since the other buildings in the immediate vicinity are either 1 or 2 stories in height. The proposed massing of the 2-story building is appropriate for this location.

   C) Allow for a primary frontage entryway that is not recessed where the primary frontage entryway is required to be recessed between 3 ft. and 8 ft. from the portion of the primary frontage façade closest to the street per Section 135-2.5.3.D.21. The proposed building includes a primary entrance along Ingersoll Avenue that would not be recessed within the building. However, the building does include a prominent entry feature with vertical elements that protrude slightly from the building. Staff is supportive of this Type 2 Design Alternative since the primary entrance has and appropriate design and is setback approximately 10 feet from the front property line.

   D) Allow for two driveway accesses off the non-primary street where one driveway off each non-primary street is allowed per Section 135-2.5.3.A.9. The proposed Site Plan includes an off-street parking lot with 20 parking spaces located to the north (rear) of the building. This parking lot would be accessed from two (2) driveways from 31st Street instead of the allowed 1 driveway. Staff is not
supportive of this Type 2 Design Alternative. Staff believes that adequate access to an off-street parking lot with 20 spaces can be achieved by providing only 1 driveway.

2. **Staff Rationale:** Staff is supportive of the granting of three requested Design Alternatives in parts A, B and C. This is based on the determination that they are all appropriate given the configuration of the property lines and the topography of the site. However, staff is not support of the requested Design Alternatives in part D, as adequate access to an off-street parking lot with 20 spaces can be achieved by providing only 1 driveway. Minimizing the number of driveways is important in reducing conflict points with pedestrians utilizing the public sidewalk system.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the Public Hearing Site Plan and the Design Alternatives requested in Parts A, B and C, subject to the condition that the off-street parking lot is accessed by 1 driveway from 31st Street that is located as far north on the site as feasible and compliance with all administrative review comments.

Staff recommends denial of the Design Alternative requested in Parts D.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Greg Wattier asked if staff is recommending 1 entrance and exit or suggesting something different by not approving what the applicant has proposed?

Bert Drost stated we are recommending 1 entrance. The south entrance could be closed off. With only 20 spaces, 1 driveway would provide adequate space for maneuvering and access.

Greg Wattier asked if there will be a drive-up window?

Bert Drost stated there will be no drive-up.

Brian Wurdeman representing Kimley-Horn and Associates stated this is a very unique property given its width from east to west, the topography of the property and the topography of adjacent properties.

Brian Wurdeman presented exhibits showing how 1 access point would be a limiting factor for the accessibility of service and emergency vehicles into the site.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Carol Maher 701 Polk Boulevard, stated she appreciates they are providing more than 1 bike rack. As a bicyclist, she isn’t in favor of anymore curb cuts and would support
staff with providing just 1 curb cut. If there is a 24-hour ATM, it should be off the front of the building verses tucked away in the back from a safety point of view.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Brian Wurdeman stated bicycle and pedestrian activity is a big emphasis on the project and the project team will evaluate the comments made around ATM location. He believes 2 curb cuts will create a safer environment for bicyclist with truck traffic in the area. 2 access points should be provided so they can keep the truck movements internal and operate safely.

Francis Boggus stated the arguments made by the applicant for 2 access points have been persuasive and he would recommend approval of Parts A, B, C and D.

Greg Wattier stated he would agree with Francis’s comments as 1 access point creates a challenging situation for cars and pedestrians.

Greg Jones stated a fire truck would never pull into the parking lot but does agree with it being a challenge for garbage trucks. He would not be in support of D and would be voting in opposition.

Kayla Berkson stated she wonders if it would be easier for garbage trucks to access the site, if the dumpster was placed to the North of the parking lot.

**COMMISSION ACTION:**

Francis Boggus made a motion for **approval** of the Public Hearing Site Plan and the Design Alternatives requested in Parts A, B and C, subject to compliance with all administrative review comments.

**THE VOTE: 13-0**

Francis Boggus made a motion for **approval** of the Design Alternative requested in Parts D.

Motion Failed: 5-8 (Carolyn Jension, Johnny Alcivar, Greg Jones, Steve Wallace, Kayla Berkson, Jann Freed, Dory Briles and Abby Chungath voted in opposition.)

Greg Jones made a motion for **denial** of the Design Alternative requested in Parts D.

**THE VOTE: 8-5** (Greg Wattier, Francis Boggus, Lisa Howard, Emily Webb and Rocky Sposato voted in opposition.)

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Item 10

Request from Flummerfelt Eagle Pointe, LLC (owner), represented by Mike Flummerfelt (officer), for review and approval of a Public Hearing Site Plan with alternative design documentation 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 7002 Indianola Avenue, to allow development of the previously approved Site Plan for a Mobile Home Park with the waiver of the requirement for street trees per Section 135-7.6.4(A).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing a new, 180-lot manufactured home subdivision on the site. They obtained site plan approval on March 10, 2021 through the administrative process. Their approved site plan complies with the street tree requirements found in Section 135-7.5 of the Planning and Design Ordinance. They have submitted an amendment request to allow waiver of the street tree 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 the report.

2. Size of Site: 38.485 acres.

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

4. Existing Land Use (site): The subject property was previously a field for agricultural uses.

5. Adjacent Land Use and Zoning:

   - North - “EX” & “N1a”, Uses are agricultural uses and single-family residential.
   - South - “PUD”; Use is multiple-household living dwelling.
   - East - “NX2” & “P1”; Uses are cemetery, agricultural uses and single-family residential.
   - West - “NM”; Use is a manufactured home community.

6. General Neighborhood/Area Land Uses: The subject property is located at the west side of Indianola Avenue near Southridge Mall, approximately 0.25 miles south of East Army Post Road. Surrounding uses are a mix of manufactured housing, single-family residential, multiple-family household dwellings (Meadow Ridge), and agricultural fields.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Easter Lake Area Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

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 Easter Lake Area mailings were sent to Jim Bollard, 4007 SE 26th Street Des Moines, IA, 50320.

8. **Relevant Zoning History:** On December 15, 2019, the City Council rezoned the property to “NM” Mobile Home Parks as part of the citywide Zoning Map update.

9. **PlanDSM Land Use Plan Designation:** Medium 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. Street Trees: Section 135-7.5.2 of the Planning and Design Ordinance indicates that street trees shall be provided along streets. During the site plan review process the applicant was informed of the requirement to add street trees at a rate of one (1) tree for every 30 feet of street frontage, with a minimum of one (1) street tree per street frontage. City staff approved the applicant’s site plan (case #10-20-7.127) with one (1) tree per lot. Most of the lots are somewhat narrow (50-60 feet wide) and included a driveway along the frontage, therefore, more than one (1) tree is possible.

In May 2021, the applicant contacted planning staff to request a full waiver of the street tree requirements, noting that between the frequency of the trees required, the setback requirements for manufactured homes within the NM district, and the nature of the use (mobile homes that must be placed on or removed from that lots), it would create challenges to the functionality of the site. City staff instructed the applicant to submit alternate design documentation indicating their request. The applicant provided the following rational:

Because of the nature of the homes in Eagle Pointe being “mobile” homes, they can and do move in and out. Placing trees along the street makes it difficult to move the homes and limits the ability to provide a garage to homeowners. The current code requirements would result in trees being cut down and replaced much more frequently than a typical single-family
home development and limits the ability to create a significant canopy from mature trees.

Under the current approval, the development has an overall site canopy coverage 26% without the addition of street trees, which far exceeds the code’s minimum requirement of 15%. By providing one site tree per lot, located and staggered at the rear of each property, the site tree coverage will provide adequate tree canopy coverage without creating challenges at the street frontage with loading/unloading manufactured homes onto the lots.

Based on the new information, planning staff agrees that providing street trees at a rate of one (1) per lot would create a difficult scenario in providing adequate usage of the site and could require removal of trees as a result, especially on the narrower lots. Staff offered to approve a Type 1 Design Alternative of one (1) street tree per every two (2) lots with the trees alternating on either side of the street. Staff believes this would provide ample space for manufactured homes to be moved while meeting the intent of the Planning and Design Ordinance. Full waiver of the requirement would not comply with the goals of PlanDSM and the City’s Urban Forest Master plans.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to provide street trees along all streets internal to the site as required per Section 135-7.5.

Staff will issue a Type 1 Design Alternative of one (1) street tree per every two (2) lots with the trees alternating on either side of the street if the Commission denies the request to waive the requirement in its entirety.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Mindy Bryngleson 1523 Bell Avenue, Suite 101 representing CGA, Inc, stated the City of Des Moines landscape ordinance does not seem applicable for this type of development. These lots range from 50-58 feet wide, the owners have the option to build garages on the lot and each lot contains 2 spaces for parking. In order to allow garage placement, it would hinder where they could place trees. The only time an owner would not be allowed a garage is if they chose the 58-foot-wide lot. They currently have trees towards the rear of the yard, they cannot place them all the way back as they have a 10-foot easement for gas and electric. With the utility services running along-side each home, that leaves them with an 11-foot space to plant trees.

CHAIRPERSON OPENED THE PUBLIC HEARING

Kevin Kruschwitz, representing Flummerfelt Eagle Pointe, LLC, stated he is the general manager for the applicant and currently drives the truck that places these homes in the community. Any items close to the front or side of the homes can cause problems
when moving a home in or out of the community. In a lot of these communities, you will not see any trees because of these reasons.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Greg Jones stated it would be grim if there weren’t any street trees. Allowing them to go every other would be better than no trees.

Emily Webb asked if the commission approves staff recommendation, would they applicant seek the Type 1 Design alternative?

Jason Van Essen stated staff is willing to approve a type 1 design alternative mentioned in the staff report. If the commission was not supportive of that, staff would need to go back and see how they could implement the direction given from the commission.

**COMMISSION ACTION:**

Greg Jones made a motion for denial of the requested Type 2 Design Alternative to provide street trees along all streets internal to the site as required per Section 135-7.5.

**THE VOTE: 13-0**

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**Committee and Director’s Reports:**

Meeting adjourned at 7:15pm