The July 15, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 827 8175 8175


P&Z ABSENT: Abigail Chungath and Lisa Howard

STAFF PARTICIPANTS: Jason Van Essen, Glory Parks and Judy Parks-Kruse.

Emily Webb made a motion to approve the June 17, 2021, Plan and Zoning Commission meeting minutes. Motion carried 8-0-4 (Chris Draper, Todd Garner, Will Page and Jann Freed abstained from the vote).

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, #7, #8, #9 or #10. A member of the public requested to speak on item #6.

Francis Boggus made a motion to move items #11 and #12 to the consent agenda.

(Greg Wattier arrived)

Will Page made a motion to approve consent agenda items #1, #2, #3, #4, #5, #7, #8, #9, #10, #11 and #12. Motion Carried 13-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from James Hunter and Connie Conrad-Hunter (owners) to designate the “Snookies Neon Sign” at 1810 Beaver Avenue as a local Landmark. (20-2021-4.01)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Case Overview: The subject property is located on the west side of Beaver Avenue at the intersection of Beaver Avenue and 41st Street. It contains the Snookies Malt Shop. The 1950’s-era neon sign – likely from a Dairy Queen – was acquired by the original owners in 1986 and was installed on site after being repainted and rebranded.

On June 22, 2021, the Landmark Review Board unanimously approved the recommendation that the “Snookies Neon Sign” be designated a local Landmark. The Board is comprised of the Historic Preservation Commission and the Urban Design Review Board. The Board meets as needed to review nominations and proposed alternations to landmarks not located within a local historic district.
The Landmark Review Board and the Plan and Zoning Commission recommendations will be forwarded to the City Council for review in accordance with Chapter 58-60 and Chapter 82-40 of the City Code. If the sign is designated as a Landmark then any alteration, new construction, or demolition would be subject to review by the Landmark Review Board and require approval by the City Council.

2. **Size of Site:** 0.469 acres.

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

4. **Adjacent Land Use and Zoning:**
   - **North** – “MX1”; Uses are commercial.
   - **South** – “MX1”; Use is commercial.
   - **East** – “MX1”; Uses are commercial.
   - **West** – “MX1”; Use is commercial.

6. **Applicable Recognized Neighborhood(s):** The subject building is located within the shared area of the Beaverdale and Waveland Park Neighborhoods. All recognized neighborhoods were notified of the meeting by mailing of the Final Agenda on July 9, 2021. All agendas are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Beaverdale Neighborhood Association mailings were sent to Marcus Coenen, P.O. Box 30175, Des Moines, IA 50310. The Waveland Park Neighborhood Association mailings were sent to Anna Mason, 1434 44th Street, Des Moines, IA 50311.

7. **PlanDSM Land Use Plan Designation:** Community Mixed Use.

8. **Applicable Regulations:** Pursuant to Chapter 82-40(a) of the City Code, the Plan and Zoning Commission is an advisory body to the City Council and is a key factor in the growth and development of the city. Therefore, the Commission reviews all local Landmark and Historic District nominations in accordance with the Historic Preservation Ordinance and for compliance with the City’s Comprehensive Plan and forwards a recommendation to the City Council.

II. **APPLICABLE SECTIONS OF THE CITY CODE**

Section 58-56 of the Historic Preservation Ordinance contains the landmark purpose statement. Section 58-58 contains the criteria for the designation of a landmark and Section 58-60 establishes the nomination process.

**Sec. 58-56. Purpose.**
It is declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this article is to:

(1) Effect and accomplish the protection, enhancement and perpetuation of such improvements which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

(2) Safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements;

(3) Stabilize and improve property values;

(4) Foster civic pride in the beauty and accomplishments of the past;

(5) Protect and enhance the city's attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry;

(6) Strengthen the economy of the city; and

(7) Promote the use of landmarks for the education, pleasure and welfare of the people of the city.

Sec. 58-58. Designation criteria.

(a) For purpose of this article, a landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon that possesses integrity of location, design, setting, materials, workmanship, feeling and association and that:

(1) Is significant in American history, architecture, archaeology and culture;

(2) Is associated with events that have made a significant contribution to the broad patterns of our history;

(3) Is associated with the lives of persons significant in our past;

(4) Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

(5) Has yielded or may be likely to yield information important in prehistory or history.

(b) Ordinarily cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historic buildings; properties primarily commemorative in nature; and properties that have achieved significance
within the past 50 years shall not be considered eligible for the landmark designation. However, such properties will qualify if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(2) A building or structure removed from its original location which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

(3) A birthplace or grave of a historical figure of outstanding importance, if there is no appropriate site or building directly associated with his or her productive life.

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.

(5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.

(6) A property primarily commemorative in nature, if design, age, tradition or symbolic value has invested it with its own historical significance.

(7) A property achieving significance within the past 50 years, if it is of exceptional importance.

Sec. 58-60. Procedures.

(a) The historic preservation commission shall consider the nomination of landmarks and landmark sites located within historic districts, and make a report and recommendation on such nomination to the city plan and zoning commission and city council as provided below. The landmark review board shall consider the nomination of landmarks and landmark sites located outside historic districts and make a report and recommendation on such nomination to the city plan and zoning commission and city council as provided below.

(b) Notice that an application for designation of a landmark or landmark site is being considered shall be given to the owner of the parcel on which the proposed landmark is situated or which is part of the proposed landmark site in accordance with the following:

(1) Such notice shall be served by certified mail, addressed to the owner at his or her last known address as such appears in the records of the county treasurer’s office, or if there is no name on such records, such notice may be served by regular mail addressed to "owner" at the street address of the property in question.

(2) Such owner shall have the right to confer with the historic preservation commission or landmark review board, as applicable, prior to final action by the commission or board on the application.
(3) The historic preservation commission or landmark review board, as applicable, may, in addition, hold the public hearing of the proposed designation by giving notice as required by law.

(c) After such investigation by the historic preservation commission or landmark review board as is deemed necessary, but in no case more than 60 days after the receipt of the complete application, the application for designation shall be recommended for approval or disapproval. Such recommendation shall be in writing and signed by the chair of the historic preservation commission or landmark review board, as applicable, and shall state the reasons for recommending approval or disapproval. The recommendation may limit itself to the proposed landmark or landmark site as described in the application or may include modifications thereof. Such recommendation shall be forwarded to and filed with the plan and zoning commission, within five days after making such recommendation.

(d) Upon receipt of such recommendation, the plan and zoning commission shall schedule a public hearing at a specific place, date and time, not more than 30 days after such receipt, by giving notice as required by law.

(e) Within 30 days after the public hearing, the plan and zoning commission shall forward such application to the city council, together with the recommendation of the historic preservation commission or landmark review board. The plan and zoning commission may adopt the recommendation of the historic preservation commission or landmark review board as its own or may prepare a written recommendation of its own. The plan and zoning commission may limit itself to the proposed landmark or landmark site or may include modifications thereof. If the modification requires an additional public hearing, the plan and zoning commission shall hold such hearing before forwarding the application to the city council.

(f) Upon receipt of such recommendation, the council shall schedule a public hearing to consider the recommendation at a specific place, date and time, not more than 30 days after such receipt, by giving notice as required by law.

(g) The city council, after public hearing, may approve, approve with modification, or disapprove the recommendation of the plan and zoning commission by a majority vote of its membership. If the plan and zoning commission shall have failed to act within the time limit set forth in this section, the city council may, nevertheless, approve, approve with modification, or disapprove the proposed landmark or landmark site as originally proposed or modified by a majority vote of its membership.

II. ANALYSIS

1. Landmark Nomination Criteria: A nomination must demonstrate that the subject building or site possesses integrity of location, design, setting, materials, workmanship, feeling and association and meets one or more of the following criterion.
(1) Is significant in American history, architecture, archaeology and culture;

(2) Is associated with events that have made a significant contribution to the broad patterns of our history;

(3) Is associated with the lives of persons significant in our past;

(4) Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

(5) Has yielded or may be likely to yield information important in prehistory or history.

The nomination suggests the building meets Criteria 1 and 4. The following points from the submitted form make the case for how the sign “is significant in American history, architecture, archaeology and culture” and “embodies the distinctive characteristics of a type, period, or method of construction.”

- Though not original to the property, the sign is an authentic 1950s-era neon advertisement and comparative visual evidence suggests it was originally a Dairy Queen sign. Archival research reveals the Snookies building was originally constructed and operated as a Dairy Queen in the 1950s, thus the sign correlates with the building's first commercial function.

- The Snookies neon sign has become a signature visual landmark in the Beaverdale neighborhood and the City of Des Moines. Its iconographic status is evidenced by the tradition of locals and visitors taking photographs in front of the sign or “selfies” with the sign featured in the background. A quick social media internet search provides many examples of this cultural practice.

- The sign is also significant in its ability to visually and physically connect with the historical period at which this intersection transitioned to commercial use – the 1940s and 1950s. Not only is it authentically of the era, but it conveys an appropriate authenticity of the mid-century (sub)urban landscape of Beaverdale.

- The Snookies sign is one of few authentic remaining neon signs in the City of Des Moines. Introduced to the United States in 1923 by French businessman Georges Claude, neon signs quickly caught on as a popular fixture in outdoor advertising in the U.S. Neon became symbolic of America’s inventiveness and creativity, with large neon signs dominating downtowns across the country. Neon signs reached their heyday in the 1950s, strongly connected with this country’s growing car culture, suburbanization, and diners/fast food. By the 1960s, sign technologies and public tastes changed. Cheaper alternatives like LED bulbs and plastics became the preferred choice for commercial advertising. Today, few companies retain the appropriate tools and expertise with which to craft new neon signs or repair vintage signs. Neon can be expensive to repair and may not be allowed in newer zoning codes throughout the country. The
Snookies sign thus represents a particularly unique era in the craft of commercial sign design

2. **PlanDSM Creating Our Tomorrow:** The PlanDSM Comprehensive Plan was approved on April 25, 2016. The nomination is supported by numerous PlanDSM Goals and Policies including:

   **Land Use Goal 6**
   **Recognize the value of Des Moines’ historic building stock and landscapes and ensure their preservation**

   LU 35: Encourage expansion and establishment of National Historic Districts, local historic districts, and local landmarks.

   **Community Character and Neighborhood Goal 1**
   **Embrace the distinct character offered in each of Des Moines’ neighborhoods.**

   CCN1: Celebrate the City’s culture and diversity through the creation of vibrant neighborhood nodes and corridors.

   **Community Character and Neighborhood Goal 4**
   **Protect Des Moines’ historic and cultural assets that contribute to neighborhood and community identity.**

   CCN25: Partner with the historic preservation community to promote Des Moines’ rich history through education and outreach on historic structures, districts, and landscapes.

**III. STAFF RECOMMENDATION**

Staff recommends that the “Snookies Neon Sign” be designated as a local Landmark.

**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:**

Will Page made a motion that the “Snookies Neon Sign” be designated as a local Landmark.

**THE VOTE:** 13-0
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 a 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 926 Kirkwood Avenue, to allow construction of a House B Building Type within a “N3b” Neighborhood District with a 120-square foot shed in place of a garage as required by Section 135-2.14.3(E)(3).

(BLD2021-01174)

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: 100 feet by 138 feet (13,800 square feet).

3. Existing Zoning (site): “N3b” Neighborhood District.

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

5. Adjacent Land Use and Zoning:

   North – “N3b”; Uses are Kirkwood ROW and one-household dwellings.
   South – “RX1”; Uses are one-household dwellings.
   East – “N3b”; Uses are one-household dwellings.
   West – “N3b”; Uses are one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located generally between MacRae Park to the north and Lincoln High School to the south in a residential area that consists primarily of one-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is located in Grays Lake Neighborhood and is within 250 feet of Indianola Hills Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 2021 (10 days prior to the public hearing) to the Grays Lake and Indianola Hills 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 designated by the recognized neighborhood association to the City of Des Moines Neighborhood
Development Division. The Grays Lake Neighborhood mailings were sent to Stephanie Running, 1334 Loomis Avenue, Des Moines, IA 50315. The Indianola Hills Neighborhood mailings were sent to Jeni Dooley, 712 Virginia Ave, Des Moines, IA 50315.

8. Relevant Zoning History: None.


10. Applicable Regulations: Section 135-2.14.3.E.3 states that a minimum 288 square feet garage is required for each House B building type and each unit of a 2-unit House B. 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 B building, and each unit of a 2-unit House B, 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:
  - 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. Type 1 Design Alternatives Approved Administratively: A Type 1 Design Alternative has been approved by planning staff to decrease the minimum building width by 9 feet (25.7% of required) per Section 135-9.2.3.B.1.

2. Garage Requirement: There are 35 parcels located within 250 feet of the subject property. Staff found that 20 (57.14%) of these parcels are built with a garage or are vacant and are assumed to have a garage pursuant to Section 135-2.14.3.E.3. A total of 18 (58.06%) of the 31 residential use parcels are built with a garage or are
vacant and are assumed to have a garage pursuant to Section 135-2.14.3.E.3. The adjoining houses to the east and west are built with a garage. A 10-foot by 12-foot (120 square foot) shed is proposed towards the back of the lot.

Recently approved updates to the Planning and Design Ordinance 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. This amended is not effective until the ordinance is published, which is expected to occur on July 16, 2021.

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.

In light of the changes to the Planning and Design Ordinance that were approved by the City Council and become effective on July 16, 2021, 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 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:**

Will Page 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:** 13-0
Item 3

Request from Scott Bogdanski and Whitney Poston-Bogdanski (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 1510 47th Street, to allow construction of a 480-square foot detached garage in the rear yard that would be within 2-feet of the north side property line, where a 5-foot minimum setback is required by Section 135-2.22.2(C)(1).

(BLD2021-01313)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 20-foot by 24-foot detached garage in the rear yard. The garage is proposed to be set within 2-feet of the north side property line. The applicant is replacing an existing garage and is requesting the reduced setback in order to avoid removal of a mature overstory tree in the rear yard.

2. Size of Site: 51 feet by 139 feet (7,089 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 June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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. Section 135-2.22.1.D.3.a states that the accessory structure should have a minimum 5-foot setback to the side and rear lot lines.

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:

  Ø 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;

  Ø 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: The applicant is replacing an existing garage and is requesting a reduced setback in order to avoid removal of a mature overstory tree in the rear yard. The new garage would measure 20 feet by 24 feet and would be within 2 feet of the north side property line.

   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 for a reduced side setback.

III. 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:

Will Page 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: 13-0
Item 4

Request from Hy-Vee, Inc. (lessee) represented by John Brehm (officer) for review and approval of a Public Hearing Site Plan “Hy-Vee Aisles Online Des Moines #4” 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 4605 Fleur Drive, to allow a 970-square foot drive-through canopy addition on the north interior side façade of the existing Commercial Center Type building where it is only allowed on the rear façade in a “CX” Mixed Use District per Section 135-2.22.3(D)(1). The subject property is owned by Raccoon Valley Investment Company represented by Scott McMurray.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing a 970-square foot canopy addition and drive-through on the interior side façade of the existing building for Hy-Vee Aisles Online grocery pickup. The Planning and Design Ordinance requires drive-through facilities to be located on the rear façade of a building on properties zoned “CX” District. 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: 525,111 square feet or 12.06 acres.


4. Existing Land Use (site): The site contains a one-story commercial center building with 146,396 square feet of gross floor area and a small one-story convenience store and fueling station canopy with 2,442 square feet of gross floor area.

5. Adjacent Land Use and Zoning:
   
   North – “MX2” and “CX”; Uses are commercial in nature.
   South – “MX3”; Uses are commercial in nature.
   East – “RX1” and “CX”; Uses are commercial in nature.
   West – “MX2”, “MX3”, and “CX”; Uses are commercial in nature.

6. General Neighborhood/Area Land Uses: The subject property is located on the Fleur Drive corridor, which contains a mix of commercial and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Watrous South Neighborhood Organization and within 250 feet of the Southwestern Hills.
Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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 on the date of the mailing. The Watrous South Neighborhood mailings were sent to James Spoiler, PO Box 35845, Des Moines, IA 50315. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th St, Des Moines, IA 50321.

8. Relevant Zoning History: None.


10. Applicable Regulations: 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. Drive-Through Facility: Section 135-2.22.3(D)(1) of the Planning and Design Ordinance requires drive-through facilities to be located on the rear facade of the building. The proposed development consists of the addition of a 970-square foot drive-through canopy on the north (interior) side of the building. Relocating the drive-through to the east (rear) façade is not practical, as the east façade of the building adjoins a 32-foot driveway that is used for truck and loading dock traffic. This area is generally not used by customers.

The location of the proposed drive-through canopy is in the existing parking lot on the north side of the building and will not substantially increase traffic within the parking lot. Landscaping is proposed between the parking lot and drive-through lanes to provide a buffer. 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. Staff supports this Type 2 Design Alternative request.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative and 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:

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

THE VOTE: 13-0

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Item 5

Request from Bakkie Properties, LLC (owner), represented by James Bakkie (officer), for the following regarding property located at 914 East Euclid Avenue:

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

B) Rezone property from “MX3” Mixed Use District to “RX2” Mixed Use District to allow development of additional Multiple Household Living dwellings on the property, where the structures would contain dwelling units on the ground level. (ZON2021-00076)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to expand the existing Multiple Household Living (4 units) use of the property to include additional Multiple Household Living structure(s). The current “MX3” Mixed Use District only allows household living units on upper floors only per the City Code Table 134-3.1-1, whereas the requested “RX2” Mixed Use District allows household living on all floors.

2. Size of Site: 70 feet by 185 feet (13,039 square feet).

4. **Existing Land Use (site):** Multiple Household Living use with four (4) dwelling units.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N3a”; Use is vacant land.
   - **South** – “MX3”, Uses are East Euclid Avenue and a restaurant with drive-through window (Taco Johns).
   - **East** – “MX3”; Use is a Bar (Bailey’s Pub & Grub).
   - **West** – “MX3”; Use is a restaurant with drive-through window (KFC).

6. **General Neighborhood/Area Land Uses:** The subject property is located on the U.S. Highway 6/East Euclid Avenue corridor, just west of the East 14th Street/U.S. Highway 69 corridor. It contains a mix of commercial and industrial uses surrounded by mixed densities of residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed June 25, 2021 (20 days prior to the hearing) and July 2, 2021 (10 days prior to the hearing) to the Highland 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(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 Association notices were mailed to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313.

   The appellant must provide a summary of their neighbor communications to City Staff at least 3 days before the Plan & Zoning Commission holds the public hearing.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Community Node centered at East Euclid Avenue and East 14th Street.

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 “Community Mixed Use” within a Community Node. Plan DSM describes this designation 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.

Residential Land Use Density is also boosted to allow High Density Residential when Community Mixed Use is within a Community Node.

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

Based on these designations, the proposed “RX2” Mixed Use District zoning would be found in conformance with the Comprehensive Plan with densities in excess of 17 units per acre. The unit density proposed by the applicant would be over 35 units per acres. Staff believes the proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor.

2. Planning and Design Ordinance: Any construction of a Multiple Household Living use must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The “RX2” Mixed Use District would allow for the review under the General Building Type requirements in Chapter 135, Section 135-2.7.

3. Staff Rationale: Staff believes that the proposed expansion of a Multiple Household Living use is appropriate given the location within a Community Node. PlanDSM contemplates density within nodes and provides opportunities for affordable housing within close proximity to a range of services.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “RX2” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Community Mixed Use within a Community Node.
Part B) Staff recommends approval of requested rezoning the subject property from “MX3” Mixed Use District to “RX2” Mixed-Use.

**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:**

Will Page made a motion of:

Part A) the proposed rezoning to “RX2” Mixed Use District is in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Community Mixed Use within a Community Node.

Part B) **APPROVAL** of requested rezoning the subject property from “MX3” Mixed Use District to “RX2” Mixed-Use.

**THE VOTE: 13-0**

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**Item 7**

Request from Oakview Terrace I LP/J.B Conlin (owner), represented by Doug Saltsgaver, for review and approval of a Public Hearing Site Plan “Oakview Terrace” 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 3201 30th Street, to make various site improvements. *(10-2021-7.119)*

A) Allow an on-site surface parking lot within the front yard of a Flat Building Type where it is only allowed within a rear yard per Section 135-2.11.3(A)(11).

B) Waive the requirement to underground existing overhead utility lines per Section 135-9.2.1(E).

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The proposed site plan would allow site improvements for the existing residential use, including building renovations and landscaping/parking lot improvements. 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**: 82,107 square feet (1.885 acres).

3. **Existing Zoning (site)**: “NX2” Neighborhood Mix District.

4. **Existing Land Use (site)**: The property contains four (4) multifamily residential structures, with 32 units total on the site. There is also a surface parking lot and open space utilized by residents.

5. **Adjacent Land Use and Zoning**:
   - **North** – “NX2”; Uses are multifamily dwelling units.
   - **South** – “NX2”; Uses are multifamily dwelling units.
   - **East** – “NX2”; Use is a multifamily dwelling unit.
   - **West** – “N3b”; Uses are 30th Street and one-household dwelling units.

6. **General Neighborhood/Area Land Uses**: The subject property is located along 30th Street, in a residential area that includes a mix of housing typologies (single-family homes, duplexes, and larger multifamily residential buildings).

7. **Applicable Recognized Neighborhood(s)**: The subject property is in the Prospect Park Neighborhood and within 250 feet of the Beaverdale Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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 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 on the date of the mailing. The Prospect Park Neighborhood mailings were sent to Mark Gordon, 2400 26th Street, Des Moines, IA 50310. The Beaverdale Neighborhood mailings were sent to Marcus Coenen, P.O. Box 30175, Des Moines, IA 50310.

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:
    - 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. Parking Lot Standards: Section 135-2.11.3(A)(11) of the Planning and Design Ordinance applicable to Flat buildings within the “NX2” District allows for surface parking to occur within rear yards only. The proposed site plan makes significant improvements to an existing off-street parking lot that is located within front and
side yard areas along 30th Street. Given the configuration of the existing buildings, it is reasonable for the parking lot to remain in its present location. Granting this design alternative would not have a substantial adverse effect upon adjacent property, the character of the surrounding area, or public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

2. **Overhead Utility and Service Line Standards:** 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 practicable. The site is currently served by multiple electrical transmission lines that run along the eastern, southern, and western property edges, with small service lines to buildings or on-site light poles. The applicant is proposing to underground the service line to the southwestern building while leaving the remaining lines in place.

Staff does not believe that it would be reasonably practicable to require the larger transmission lines that run along the perimeter of the site to be undergrounded. Undergrounding these lines would substantially affect the provision of electricity to adjoining properties. Further, the applicant obtained a cost estimate for this work, and the initial estimate of $108,528 (about 18% of total project cost) is above normal utility undergrounding costs for projects of similar scope.

However, staff believes it is reasonably practicable to underground the existing service lines that come out of the 30th Street right-of-way and cross the site. These lines provide power to the building in the northwest quadrant of the property and the on-site light poles. While the applicant has not provided a cost estimate for undergrounding these smaller lines, this process is typically logistically easier and less of a financial burden than undergrounding the larger transmission lines discussed previously. Additionally, with the proposed reconstruction of the surface parking lot, this would be an opportune time to underground any transecting utility lines.

Staff is supportive of the applicant’s request to maintain the service lines that run power to the two buildings on the eastern edge of the property, because those lines do not cross the public right-of-way and are not in public view.

III. **STAFF RECOMMENDATION**

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

Staff recommends the following as it relates the requested Type 2 Design Alternatives:

A. Approval of the requested Type 2 Design Alternative to allow reconstruction of surface parking within front and side yard areas.

B. A finding that it would not be reasonably practicable for the applicant to underground the transmission lines that run along the eastern, southern, and
western edges of the site or to underground the service lines that provide power
to the eastern buildings along the rear of the site.

A finding that it would be reasonably practical for the applicant to underground
the service lines that extend onto the site from 30th Street, which generally
provide power to the western buildings and parking lot light poles.

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:

Will Page made a motion for:

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

Approval of the requested Type 2 Design Alternative to allow reconstruction of surface
parking within front and side yard areas.

A finding that it would not be reasonably practicable for the applicant to underground
the transmission lines that run along the eastern, southern, and western edges of the
site or to underground the service lines that provide power to the eastern buildings
along the rear of the site. (Approval of Type 2 Design Alternative)

A finding that it would be reasonably practical for the applicant to underground the
service lines that extend onto the site from 30th Street, which generally provide power
to the western buildings and parking lot light poles. (Denial of Type 2 Design Alternative)

THE VOTE: 13-0

Item 8

Request from John Washburn (owner) for review and approval of a Public Hearing Site
Plan for a 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 2809 38th Street, to allow
construction of a House C Building Type within a “N4” Neighborhood District with an
attached garage at the front of the building within an interior side access door. (BLD2021-01430)

A) Allow parking within the front of a building where it is only allowed within a
basement or in the rear of the ground story per Section 135-2.15.3(C)(17).
B) Allow one less than the required two dormer or gables required for a roof with a ridgeline parallel to the street per 135-2.15.3(D)(23). (withdrawn by the applicant)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 1,733-square foot home with a 1,016-square foot attached garage. The attached garage is proposed to be constructed in the front of the home with the garage doors facing the north side yard. However, for House C Building Type an attached garage is only allowed within a basement or in the rear of the ground story.

2. Size of Site: 66 feet by 305 feet (20,105 square feet).

3. Existing Zoning (site): “N4” Neighborhood District.

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

5. Adjacent Land Use and Zoning:

   - North – “N4”; Uses are one-household dwellings.
   - South – “N4”; Uses are one-household dwellings.
   - East – “N4”; Uses are one-household dwellings.
   - West – “N4”; 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 Beaverdale Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 2021 (10 days prior to the public hearing) to the Beaverdale 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 Beaverdale Neighborhood mailings were sent to Marcus Coenen at P.O. Box 30175, Des Moines, IA 50310.

8. Relevant Zoning History: None.

10. **Applicable Regulations:** Section 135-2.15.3(C)(17) states that for House Type C parking within the principal building shall be allowed within a basement or in the rear of the ground story.

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. Garage Location: The applicant has proposed to build a new infill home with an attached garage on the front of the home with the garage doors facing the north side yard. Reducing the overall length and area of the driveway paving was cited by the applicant as a reason for designing the house with the garage on the front. The applicant also wishes to maintain a large open backyard. Section 135-2.15.3(C)(17) requires parking within the principal building to be within a basement or in the rear of the ground story.

2. Staff Analysis: This area within the Beaverdale Neighborhood has a mix of 2-story and 1.5-story homes. The predominate character of garages in the area is that they tend to be detached structures or located in the basement of the house. The overall design of this house is not entirely in step with the character of the neighborhood. However, the applicant has made design revisions to upgrade the exterior siding materials to fiber cement board lap siding, as well improve the façade design by adding a second gabled dormer over the garage.

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. Staff is supportive of the requested waiver to place the garage in front of the house since lots in this area are relatively large and houses tend to have larger than normal front yard setbacks. The deeper than normal front yard minimizes the impact that the garage forward design has on the character of the area.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative with the condition that the garage doors be of a design that includes windows 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:

Will Page made a motion for approval of the requested Type 2 Design Alternative with the condition that the garage doors be of a design that includes windows and the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

THE VOTE: 13-0

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Item 9

Request from 4005 Grand, LLC (owner), represented by Mike Simonson (officer), for review and approval of a Public Hearing Site Plan “Oak Crest Townhomes” 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 at 4005 Grand Avenue, to allow construction of a 6-unit household living Row Building type fronting Grand Avenue to the south and a 2-unit household living Row Building type fronting 40th Street to the east. The property is owned by St. Augustin’s Church of Des Moines (owner), represented by Fr. Christopher Pisut (officer).

A) Allow a Row Building Type with only two Household Living dwelling units where required to have multiple vertical units per Section 135-2.12.1. *(determined unnecessary by staff)*

B) Allow a street side yard setback for the 6-unit household living dwelling of 17 feet less than the calculated 41-foot average required for a Row Building type per Section 135-2.12.3(A)(5).

C) Allow the 2-unit household living dwelling to be one unit in width less than the minimum required three units in width for a Row Building type per Section 135-2.12.3(A)(8).

D) Allow the proposed building entrances of the 6-unit household living dwelling on the south primary frontage facade to be up to 7.5 feet more than the maximum 4.5 feet above public sidewalk required for a Row Building type per Section 135-2.12.3(D)(21).

E) Waive the requirement to underground all electric, phone, cable television, transmission system, per Section 135-9.2.1.E. *(withdrawn by the applicant)*
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 6-unit Row Building fronting Grand Avenue and a 2-unit Row Building fronting 40th Street. Attached and detached garages will be provided in the rear of the units with a single driveway access off 40th Street. 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: 15,666 square feet.


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

5. Adjacent Land Use and Zoning:

   North – “NX2”; Uses are residential for St Augustin’s Church.

   South – “NX3”; Uses are multiple household dwellings.

   East – “NX2”; Uses are residential single-family dwellings.

   West – “P2”; Uses are worship and assembly.

6. General Neighborhood/Area Land Uses: The subject property is located on the north side of Grand Avenue to the west of 40th Street. The surrounding area contains a mix of single household dwellings, multiple household dwellings, and places of worship.

7. Applicable Recognized Neighborhood(s): The subject property is in the North of Grand Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 2021 (10 days prior to the public hearing) to the North of Grand 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 North of Grand Neighborhood Association mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312.

8. Relevant Zoning History: None.
9. **PlanDSM: Creating Our Tomorrow Plan 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

Building Design & Configuration: The applicant is proposing two row buildings, one with six (6) units with entrances facing Grand Avenue and one with two (2) units with entrances facing 40th Street. In the NX2 District, the row building requires a street-side setback based on front setback averaging. The calculated street-side setback average along 40th Street is 43 feet. The proposed street-side setback for the 6-unit row building is 24 feet from the east property line requiring a Type 2 Design Alternative.

The row building type in a NX2 District requires a minimum building width of 3 units and an entrance elevation between 0 and 4.5 feet above the public sidewalk. The proposed 2-unit building is 1 unit less than the required minimum 3 units. The proposed entrances to the buildings would be up to 7.5 feet above the grade of the existing public sidewalks along Grand Avenue and 40th Street.

The applicant is proposing to preserve and maintain many of the large existing trees on the south side of the property where the existing grade slopes toward the public sidewalk. The unit entrances are designed to fit within these existing conditions and the nature of the corner lot creates unique challenges to meeting both the setback requirements and minimum building unit width. The requested design alternatives 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. Staff supports these Type 2 Design Alternative requests.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternatives and the proposed Public Hearing Site Plan subject to revision of the site plan and building elevations to comply 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:

Will Page made a motion for approval of the requested Type 2 Design Alternatives and the proposed Public Hearing Site Plan subject to revision of the site plan and building elevations to comply with all administrative review comments.

THE VOTE: 13-0
Item 10

Request from Spot 5, LLC (owner) represented by William Reichardt (officer) for review and approval of a Public Hearing Site Plan “515 28th 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 515 28th Street, to allow renovation of the existing building with waiver of the requirement to underground existing overhead utility lines per Section 135-9.2.1(E). (10-2021-7.105)

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 future commercial space. 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: 13,915 square feet (0.32 acres).


4. Existing Land Use (site): The subject property contains a single-story commercial building.

5. Adjacent Land Use and Zoning:

   North - “MX2”; Use is the multi-tenant commercial center.
   South - “MX2”; Use is a parking lot.
   East - “MX2”; Use is multiple household residential and parking.
   West - “RX2”; Use is multiple household residential.

6. General Neighborhood/Area Land Uses: The subject property is located on 28th Street, immediately south of the Woodland Heights neighborhood between the Ingersoll Avenue and Grand Avenue corridors. The surrounding area contains a mix of commercial, and multi-family residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is not located within a Recognized Neighborhood. However, it is located within 250 feet of the Woodland Heights Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by
mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 2021 (10 days prior to July 15, 2021) to the 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 Services Department on the date of the mailing. The Woodland Heights Neighborhood Association mailings were sent to Douglas McBride, 716 26th Street, Des Moines, IA 50312.

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 multiple existing overhead lines traversing the property on the street frontage and the northern boundary of the subject parcel. The applicant provided correspondence from MidAmerican Energy Company that highlights the following points:

- The existing overhead line along the north edge of the property is currently undergoing a design with another engineer to partially remove the line and to serve the renovated building. While this design has not been formally reviewed by MidAmerican, the overhead transformers on the northeast corner of the property will likely need to stay in some capacity in order to serve existing customers.

- Along 28th Street (west side of the property), there are two different types of lines; high voltage transmission lines, and a distribution underbuild.
  - According to MidAmerican, “it is not feasible to underground the transmission line.”
  - In regards to the distribution line, in order to continue serving the lines to the west, a four (4) or six (6) bay switchgear location and easement (20’x20’ or 20’x30’ in size) would be required, depending on a corresponding project including Ingersoll to the north. This would bring the estimated cost of undergrounding just the distribution lines to
approximately $100,000, and would still leave the high voltage transmission lines.

Given the above correspondence from MidAmerican Energy, staff finds that even though undergrounding the utilities would be a major improvement to the aesthetics of this site, it is simply not practical to require undergrounding of utilities on this site due to the following reasons:

- Site constraints, such as the minimal amount of open space, make providing an easement within the dimensions MidAmerican would need impossible.
- Multiple neighborhood and regional level power lines that cannot be undergrounded leave several layers of lines on the site even after undergrounding the distribution line.
- Transformers/other utility infrastructure that will likely need to remain despite undergrounding all else due to the need to service neighboring properties leaves a reality that without a major, multi-parcel underground project, it is simply not practical to underground those utilities within the scope of this project.
- Due again to site constraints, the landscaping on the site will be minimal and unable to include trees. This removes any potential conflicts of the growing canopy coverage with the utility lines overhead.
- The applicant has proposed to underground the service line specifically serving 515 28th. In this case, staff recommends continuing with undergrounding that service.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative as it is not 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

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:

Will Page made a motion for approval of the requested Type 2 Design Alternative as it is not 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: 13-0
Item 11

Request from 3524 6th Avenue, LLC (owner) represented by Joe Cordaro (officer) for review and approval of a Public Hearing Site Plan “Highland Apartments” 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 3524 6th Avenue to allow for renovation of the existing mixed-use commercial and residential building and related site improvements with waiver of undergrounding the existing overhead utility lines required per Section 135-9.2.1(E).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing mixed-use commercial and residential building, 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: 11,896 square feet.

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

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

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 Oak Park Neighborhood and is adjacent to the Highland Park Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of
the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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 Highland Park Neighborhood Association and the Oak Park Neighborhood Association mailings were both sent to Sherri Rosener, at 1206 Oak Park Ave, Des Moines, IA 50313.

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

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

    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 6th Avenue. Mid-American Energy provided the cost and feasibility information on Tuesday July 13, 2021. They have indicated that in this location the undergrounding of small sections of distribution feeders reduces the reliability of their services to the area. Additionally, the estimated cost for undergrounding the overhead utilities is to be around $125,000. Staff has concluded that it is not reasonably practical to require the undergrounding of all overhead, electrical, telephone, and cable television transmission systems due to the negative impact that the work would have on other property owners in the area.

III. STAFF RECOMMENDATION

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

Staff recommends approval of the Type 2 Design Alternative to waive the undergrounding of overhead utility requirement as it is not reasonably practical to do so in this case and approval of the 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:

Will Page made a motion for approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments.

APPROVAL of the Type 2 Design Alternative to waive the undergrounding of overhead utility requirement as it is not reasonably practical to do so in this case and approval of the Public Hearing Site Plan subject to compliance with all administrative review comments.

THE VOTE: 13-0

Item 12

Request from 3523 6th Avenue, LLC (owner) represented by Joseph Cordaro (officer) for review and approval of a Public Hearing Site Plan “Euclid Ave State Bank” 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 3517 and 3523 6th Avenue, to waive the requirement to underground all electric, phone, cable television, transmission system, per Section 135-9.2.1.E.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan is requesting to waive the requirement to route all overhead public utility lines underground. 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: 9,100 square feet (0.209 acres).

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

4. Existing Land Use (site): The subject property contains a 1-story, 8,870 square-foot vacant office and commercial building.

5. Adjacent Land Use and Zoning:
North – “MX1”; Use is a commercial service.
South – “NX1”; Use is a one-household dwelling mixed-use development.
East – “P2”; Uses is a public library.
West – “MX1”; Use is a mixed-use development.

6. General Neighborhood/Area Land Uses: The subject property is located on the southeastern corner of the Euclid Avenue and 6th Avenue intersection. The area is in the Historic Highland Park Business District that consists of mixed-use development with commercial development on lower levels with residential dwelling units on the upper stories.

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 public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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 Highland Park Neighborhood Association and the Oak Park Neighborhood Association mailings were both sent to Sherri Rosener, at 1206 Oak Park Ave, Des Moines, IA 50313.

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:
Community Mixed-Use (MX1)

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 Standards: 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.

The existing building is served by an overhead electrical service line that feeds from overhead transmission line poles along Euclid Avenue, then runs south along the alley to the west of the subject property to three, pole-mounted transformers where
power is then fed to the building. Mid-American Energy provided the cost and feasibility information on Tuesday July 13, 2021. They have indicated that in this location the undergrounding of small sections of distribution feeders reduces the reliability of their services to the area. Additionally, the estimated cost for undergrounding the overhead utilities is to be around $125,000. Staff has concluded that it is not reasonably practical to require the undergrounding of all overhead, electrical, telephone, and cable television transmission systems due to the negative impact that the work would have on other property owners in the area.

II. STAFF RECOMMENDATION

Staff recommends approval of the Type 2 Design Alternative to waive the undergrounding of overhead utility requirement as it is not reasonably practical to do so in this case and approval of the 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:

Will Page made a motion for approval of the Type 2 Design Alternative to waive the undergrounding of overhead utility requirement as it is not reasonably practical to do so in this case and approval of the Public Hearing Site Plan subject to compliance with all administrative review comments.

THE VOTE: 13-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 6

Request from KG Store 543, LLC (owner) represented by Gerard Haberman (officer), for the following regarding property generally located at 1619 Ingersoll Avenue and 1620 High Street. A small portion of the property is owned by the City of Des Moines.

A) Vacation of Linden Street from 17th Street to Ingersoll Avenue and 16th Street from Ingersoll Avenue to the southern line of the vacated east-west alley between 15th Street and 16th Street. (ROWV-2021-000001)
B) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

C) Rezone property in the vicinity of 1619 Ingersoll Avenue from “DX2” Downtown District to “MX2” Mixed Use District and property at 1620 High Street from “RX1” Mixed Use District to “MX2” Mixed Use District, to allow reuse of the property at 555 17th Street for a microbrewery with additional commercial uses. 

(ZON2021-00077)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to redevelop the site, primarily with a microbrewery use. Portions of the site are currently zoned “DX2” Mixed Use District and “RX1” Mixed Use District, while the balance of the site is zoned “MX2” District. The proposed rezonings would facilitate redevelopment of the site and would allow the Limited Industrial: Fabrication and Production use category that governs a microbrewery use. Any future construction or site improvements would be subject to compliance with a site plan.

The applicant is also proposing to vacate the public rights-of-way of 16th Street between Ingersoll Avenue to the southern line of the vacated east-west alley between 15th Street and 16th Street and Linden Street between Ingersoll Avenue and 17th Street. The requested vacations would facilitate the assemblage and development of the adjoining properties owned by the applicant.

2. Size of Site: A combined approximately 83,658 square feet (1.92 acres).

3. Existing Zoning (site): “RX1” Mixed Use District and “DX2” Mixed Use District.

4. Existing Land Use (site): The subject properties to be rezoned consist of three parcels including 1619 Ingersoll Avenue, 1620 High Street, and a small, vacated right-of-way parcel adjoining the northern property line of 1619 Ingersoll Avenue. The property at 1620 High Street is zoned “RX1” and contains a 2,496 square-foot, 1-story warehouse and paved surface parking lot. The properties in the vicinity of 1619 Ingersoll Avenue are zoned “DX2” and contain a small, paved surface parking lot.

The subject areas for requested vacations of public rights-of-way including Linden Street between Ingersoll Avenue and 17th Street and 16th Street between Ingersoll Avenue to the southern line of the vacated east-west alley between 15th Street and 16th Street.
5. Adjacent Land Use and Zoning:

- **North** – “RX1”; Uses are commercial in nature.
- **South** – “DX2”; Uses are office and rowhouse residential.
- **East** – “MX2” & “RX1”; Uses are commercial in nature.
- **West** – “RX1” & “MX2”; Uses are commercial and a multiple-household dwelling.

6. General Neighborhood/Area Land Uses: The subject properties are located on the north side of Ingersoll Avenue between 16th Street and 17th Street and south of High Street. The area contains a mix of commercial, office, and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Sherman Hill Neighborhood and within 250 feet of the Downtown Des Moines Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 25, 2021 (20 days prior to public hearing) and July 2, 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 Sherman Hill Neighborhood Association mailings were sent to Ryan Howell, 831 16th Street, Des Moines, IA 50314. The Downtown Des Moines Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street, Unit 413, Des Moines, IA 50309.

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.
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. PlanDSM Creating Our Tomorrow: The subject property is designated as "Downtown Mixed Use" on the Future Land Use Map. PlanDSM describes this designation as follows:

   **DOWNTOWN MIXED USE**

   Allows mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.

   The applicant is proposing to rezone portions of the site from “DX2” Mixed Use District and “RX1” Mixed Use District to “MX2” Mixed Use District. The remaining balance of the site is zoned “MX2” District currently. The Zoning Ordinance states that “MX2” is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking. Staff believes that the requested rezoning would be in conformance with the land use designation of Downtown Mixed Use.

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.

4. Streets/Sidewalk: The requested vacations would not negatively impact access to private properties or traffic patterns in the broader area.

5. Utilities: There is an existing hydrant located on the northwest corner of the 16th Street and Linden Street intersection, an air release valve within the Linden Street right-of-way, several water fittings within 16th Street and Linden Street, 8-inch distribution main in the Linden Street right-of-way and a 48-inch water main within 16th Street. There are existing sanitary manholes, combined intakes, and conduits within the requested rights-of-way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
II. STAFF RECOMMENDATION

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

Part B) Staff recommends that the requested rezoning be found in conformance with the existing PlanDSM future land use designation of Downtown Mixed Use.

Part C) Staff recommends approval of the proposed rezoning of the subject properties from “DX2” Mixed Use District and “RX1” Mixed Use District to “MX2” Mixed Use District.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

John Whitty 1459 Grand Avenue, representing Krause Group, stated they agree with the recommendation by City staff and would welcome any feedback.

CHAIRPERSON OPENED THE PUBLIC HEARING

Pat Monroe 5530 NW Beave Drive, Suite 100, Johnston, IA stated he is part owner of the property at 1540 High Street and did not receive any correspondence from Krause. As this vacation request directly effects the value of their building, they would like more information shared with them. He would like this request to be tabled until conversation is had with the Krause Group.

John Whitty stated they dispute that no information was shared with the owners of 1540 High Street as site plans and discussion was provide through the broker for Krause Group. Part of their request was to make sure access to 1540 High Street was not interrupted and still have access through their parking lot.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Chris Draper asked if there was evidence of information delivered to the owners at 1540 High Street?

Jason Van Essen stated City staff sent notice of this request and provided the applicant with the notification list that would have included the property. There is nothing impacting their property from his prospective as they currently do not have direct access to 16th Street.

COMMISSION ACTION:

Rocky Sposato made a motion for:
Part A) **APPROVAL** of the requested vacations subject to reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant’s expense.

Part B) the requested rezoning is in conformance with the existing PlanDSM future land use designation of Downtown Mixed Use.

Part C) **APPROVAL** of the proposed rezoning of the subject properties from “DX2” Mixed Use District and “RX1” Mixed Use District to “MX2” Mixed Use District.

**THE VOTE: 12-0-1** (Greg Wattier recused himself from the vote).

*(Francis Boggus left)*

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**Item 13**

Request from JOPPA (owner) represented by Joe Stevens (officer), for the following regarding property generally located at 1661 County Line Road. The property is owned by the Des Moines Metro Wastewater Reclamation Authority City of Des Moines.

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

B) Amend the PlanDSM Creating Our Tomorrow Plan to revise the future land use designation from Business Park to Neighborhood Mixed Use and Medium Density Residential. (ZONG-2021-000002)

C) Rezone property from “EX” Mixed Use District to “RX1” Mixed Use District and “NX2” Neighborhood Mix District, to allow redevelopment of the site for a JOPPA Village for 50 units of Household Living use and Professional Office use as a transitional housing community. (ZONG-2021-000001)

**STAFF REPORT TO THE PLANNING COMMISSION**

1. **GENERAL INFORMATION**

   1. **Purpose of Request**: The applicant is proposing to construct a transitional housing community for people who are houseless. The subject property is zoned “EX” Mixed Use District. The proposed rezonings to “RX1” Mixed Use District and “NX2” Mixed Use District would allow construction of 50 “tiny” homes and supportive services buildings. Any future construction or site improvements would be subject to compliance with a Site Plan.

   2. **Size of Site**: 588,858 square feet (13.81 acres).

4. Existing Land Use (site): The subject area consists of a portion of the subject property addressed as 1661 County Line Road. The property is zoned “EX” and is undeveloped.

5. Adjacent Land Use and Zoning:
   - North – “EX”; Use is undeveloped land.
   - South – “NX2”; Uses are public right-of-way (County Line Road), undeveloped land, and Flood District.
   - East – “EX”; Use is undeveloped land.
   - West – “EX”; Uses are undeveloped land and large wireless telecommunications facility.

6. General Neighborhood/Area Land Uses: The subject property is located on the north side of County Line Road, east of the intersection with Fleur Drive. The area contains a mix of agricultural land, undeveloped land, a cemetery, single-household residential use, and recreational fields.

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 June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 25, 2021 (20 days prior to the public hearing) and on July 2, 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.

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” Mixed Use District to “RX1” Mixed Use District and “NX2” Mixed Use District. The Zoning Ordinance states that “RX1” is intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods. The Zoning Ordinance states that “NX2” is intended for a mix of single- and smaller-scaled multiple-household uses and building forms to preserve the scale and character of the existing neighborhood while allowing for new infill housing.

The Future Land Use Map must be amended to identify the subject site as “Neighborhood Mixed Use” to support the NX1 zoning and “Medium Density Residential” to support the RX1 zoning. Staff believes this is appropriate as there are areas designated residential and mixed use nearby on the Future Land Use Map.

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.

4. **Utilities:** Utilities identified within the subject property include Des Moines Metro Wastewater Reclamation Authority manholes, and sanitary conduit. A 12-inch distribution main is located within Fleur Drive approximately a quarter mile from the subject property, an 8-inch distribution main is located within Havens Avenue approximately a quarter mile from the subject property, and an 8-inch distribution main is located along the south side of County Line Road approximately four-tenths of a mile from the subject property.
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 request to amend the PlanDSM Creating Our Tomorrow Plan future land use designation from Business Park to Neighborhood Mixed Use and Medium Density Residential.

Part C) Staff recommends approval of the proposed rezoning of the subject properties from “EX” Mixed Use District to “RX1” Mixed Use District and “NX2” Mixed Use District.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Will Page asked if JOPPA was a national, local, or regional organization.

Curt Carlson 2326 Euclid Avenue, representing JOPPA, stated they are a local non-profit organization that has been around Des Moines for 12 years with the mission to end homelessness around Iowa. Curt presented a slide show presentation to the commission.

CHAIRPERSON OPENED THE PUBLIC HEARING

Carol Maher 701 Polk Boulevard stated she is concerned about no sidewalks in the area of this development as the people living there will most likely not have a car, how will they get back and forth to places they need to go.

Linda Lair 3801 SW 28th Street stated she worked for JOPPA and was impressed by their ability to be flexible and identify the needs of their clients.

Brenan Buckley 3712 Bluestem Road, Norwalk, IA stated JOPPA is an organization any city in the county would be happy to have with their focus, dedication and how they go about their business. He believes Des Moines is of a size where these problems can be solved and serve the mission of JOPPA to end homelessness in Central Iowa.

Travis Shuput 5419 SW 19th Street stated if they have adequate access to City services, he would be in support of this project.

Mitch Harris representing the Watrous South Neighborhood Association stated he would echo the comments made by Mr. Shuput and if this request could be tabled until the Association meets with JOPPA on July 20th.

Curt Carlson stated they do understand more communication is needed with the neighborhood association and look forward to their meeting on the 20th. They have had discussion around sidewalks, bicycle access and are in negotiation with DART’s leadership team for a long-term plan for this development.
CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier asked if the applicant would be in favor of tabling this request to allow time for more engagement with the community?

Curt Carlson stated he would like to see this voted on tonight. There are many more reviews ahead of them with a lot of opportunity to get more engagement. The faster they can move forward, the faster they are able to help people in need.

Chris Draper asked if this would be a tax producing development?

Curt Carlson stated JOPPA is a non-profit organization, but they do pay taxes on other locations throughout the City.

COMMISSION ACTION:

Rocky Sposato 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 request to amend the PlanDSM Creating Our Tomorrow Plan future land use designation from Business Park to Neighborhood Mixed Use and Medium Density Residential.

Part C) APPROVAL of the proposed rezoning of the subject properties from “EX” Mixed Use District to “RX1” Mixed Use District and “NX2” Mixed Use District.

THE VOTE: 12-0

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Item 14

Request from Iowa Fireworks Company, LLC. (owner) represented by Jeremiah Terhark (officer) for review and approval of a Public Hearing Site Plan “Iowa Fireworks Co” 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 1820 E Army Post Road, to allow a proposed on-site surface parking lot within the front yard of the proposed Workshop/Warehouse Building Type building where it is only allowed within a rear yard or interior side yard in an “I1” Industrial District per Section 135-2.9.3(A)(8).

(10-2021-7.118)

STAFF REPORT TO THE PLANNING COMMISSION
I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing an on-site surface parking lot in the front yard of their site. The Planning and Design Ordinance requires on-site surface parking lots to be located in the rear yard or interior side yard of a Warehouse/Workshop building in properties zoned “I1” District. 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: 58,789.73 square feet (1.35 acres).

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

4. Existing Land Use (site): The site contains a vacant commercial structure previously occupied by tavern and restaurant uses, and a parking lot.

5. Adjacent Land Use and Zoning:
   
   North – “EX” and “N1a”; Uses are industrial and residential.
   
   South – “EX”; Use is industrial.
   
   East – “EX”; Use is vacant.
   
   West – “EX”; Use is industrial.

6. General Neighborhood/Area Land Uses: The subject property is located along the north side of the East Army Post Road highway commercial corridor east of the Southeast 14th Street intersection, in an area that includes a mix of industrial, commercial, and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Easter Lake Area Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on June 25, 2021 and by mailing of the Final Agenda on July 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 2, 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 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.

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:
    - 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

Section 135-2.9.3(A)(8) of the Planning and Design Ordinance applicable to Workshop/Warehouse buildings within the “I1” District allows for surface parking and loading to occur within rear and interior side yards only. The proposed site plan consists of a 13,520-square foot building with loading on the rear façade and a surface
parking lot in the front yard. The property to the east is owned by the same property
owner and driveway access is proposed to extend onto this property.

The applicant has referenced a building setback requirement for fire code purposes;
however, Fire Department staff have verified that there is not a required building
setback from the right-of-way for consumer fireworks sales. The referenced setback
would be for large display fireworks rather than consumer fireworks sales.

Staff believes that the building as currently designed could be shifted closer to the
south property line with parking provided along the east side of the building while still
maintaining sufficient truck access. The proposal is not consistent with the intent of the
Code and the applicant has not demonstrated that they face a practical difficulty in
complying with the requirement.

II. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative.

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

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Rocky Sposato asked if this request has been in front of the commission in the past?

Jason Van Essen stated this individual proposal has not.

Chris Draper asked if there was an existing building being repurposed or will everything
be torn down and rebuilt?

Jason Van Essen stated they will be tearing down and rebuilding.

Johnny Alcivar asked if any new development has occurred in this area following the
same recommendations given tonight?

Jason Van Essen stated they had a project to the east of this location that will comply
when construct.

Justin Dalton 2521 128th Street, Urbandale, IA representing Dalton Law Firm stated if
they were to shift the parking lot to the side of the building, it would create traffic
congestion with delivery and retail traffic. This configuration would allow easy access
for emergency responders on all three sides of the building, have no adverse effect on
the neighbors and is consistent with the industrial buildings around this location.

CHAIRPERSON OPENED THE PUBLIC HEARING
Jeremiah Terhark owner of Iowa Fireworks Company stated the existing building will be demolished. The new building will be smaller in square footage and the rear parking is similar to what is currently there today.

Carol Maher 701 Polk Boulevard stated she believes there is no sidewalk access to this parcel as she was looking for them while driving by the site.

Justin Dalton stated there is no sidewalk network to tie into, which also plays a part in the placement of the parking lot.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Chris Draper asked if there was an opportunity to narrow the building while keeping the same square footage.

Justin Dalton stated this is the most compact space they can get with the configuration of the lot without triggering more design requirements. Their goal with this space it to design it nice enough that if their use ever ends, it would be attractive to other buyers and hopefully spur the same quality development around it.

Will Page asked how the landscaping will break the massing of the building?

Justin Dalton stated their first goal was to design a building that was attractive enough that it would not need a lot of screening. City Council had approved the rezoning because they want an attractive facility in this location.

Will Page asked if they would work with city staff to develop this further to create a horizontal massing that breaks up the parking lot?

Justin Dalton stated if revising the landscape plan will help them keep the parking lot up front, they would be open to that.

**COMMISSION ACTION:**

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

**THE VOTE:** 11-0-1 (Chris Draper abstained from the vote).

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Committee and Director’s Reports:
Jason Van Essen stated the commission will be returning to in-person meetings starting August 5th at the Municipal Service Center.

Meeting adjourned at 7:42