
P&Z ABSENT: Jann Freed, Lisa Howard, Kayla Berkson and Greg Wattier

STAFF PARTICIPANTS: Jason Van Essen, Nick Tarpey, Glenna Frank, Frank Dunn-Young, Kyle Larson, Tyler Hall, and Judy Parks-Kruse.

Todd Garner made a motion to approve the September 16, 2021, Plan and Zoning Commission meeting minutes. Motion carried 10-0

Dory Briles asked if any members of the public or the Commission wished to speak on consent agenda items #1, #2, #3, #4, #5, #6 or #7. No one was present or request to speak.

Francis Boggus made a motion to approve consent agenda items #1, #2, #3, #4, #5, #6 and #7. Motion Carried 10-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from David Griffith (owner) for the following for property located at 1626 Buchanan Street:

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 Comprehensive Plan to revise the future land use designation from Business Park Use to Low Density Residential.  
   (ZONG-2021-000022)

C) Rezone property from “EX” Mixed Use District to “NX1” Neighborhood Mix District to allow development of the property for a residential use.  
   (ZONG-2021-000021)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to rezone the subject property to “NX1” Neighborhood District to facilitate construction of a one-household dwelling.

   Any future construction or redevelopment of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

2. Size of Site: 110 feet by 123 feet (13,530 square feet or 0.311 acres).
3. **Existing Zoning (site):** “EX” Mixed-Use District.

4. **Existing Land Use (site):** The subject property consists of a vacant lot. A 660-square foot dwelling was listed as a public nuisance in 2011 and demolished in 2012.

5. **Adjacent Land Use and Zoning:**
   
   **North** – “EX”; Uses are religious assembly.
   
   **South** – “EX”; Uses are one-household residential.
   
   **East** – “EX”; Uses are undeveloped land and one-household residential.
   
   **West** – “EX”; Uses are one-household residential.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of Buchanan Street between East 16th Street and East 17th Street. The area consists of a mix of commercial, educational, open space/public, religious assembly, and one- and two-household residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Martin Luther King Jr. Park Neighborhood. The neighborhood associations were notified of the September 16, 2021 public hearing by mailing of the Preliminary Agenda on August 27, 2021 and by mailing of the Final Agenda on September 10, 2021. The neighborhood associations were notified of the October 7, 2021 public hearing by mailing of the Preliminary Agenda on September 20, 2021 and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on August 27, 2021 (20 days prior to the September 16, 2021 public hearing) and September 3, 2021 (10 days prior to the September 16, 2021 public hearing) and on September 17, 2021 (20 days prior to the October 7, 2021 public hearing) and September 27, 2021 (10 days prior to the October 7, 2021 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 Martin Luther King Jr. Park Neighborhood mailings were sent to Charice Williams, 1434 East 18th Street, Des Moines, IA 50316.

   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:** In 2014, a Martin Luther King, Jr. Park Neighborhood Plan was prepared. This plan recommended changing the future land use designation for the area between East University Avenue and Interstate 235 to “Planned Business Park”. The plan also states, “Properties should be rezoned once
parcels are assembled for development. The existing R1-60 District should remain in place until then.”

In 2016, the City adopted the PlanDSM Comprehensive Land Use Plan, which designated this area as “Business Park” on the future land use plan map.

In 2019, the City adopted the current zoning map, which rezoned this area from “R1-60” One-Family Low-Density Residential District to “EX” Mixed Use District since the new zoning had to be in conformance with the PlanDSM Comprehensive Land Use Plan.

On July 19, 2012, by permit number BLD2011-01463 was issued allowing the demolition of a 660-square foot dwelling on the property.


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 applicant is proposing to rezone the subject property from “EX” District to “NX1” District. The Zoning Ordinance states that the “EX” District is intended for locations and corridors with a mix of light industrial and heavier commercial uses, accommodating higher levels of vehicular traffic than MX districts and a predominance of mid-scale employment uses, such as office, low intensity industrial, and warehouse spaces associated with offices. The Zoning Ordinance also states that the “NX1” District 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 subject property is within an area that is designated “Business Park” on the PlanDSM: Creating Our Tomorrow future land use plan 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 has requested that the future land use designation be revised from “Business Park” to “Low-Density Residential”. PlanDSM describes this designation as follows:

Low Density Residential
Areas developed with primarily single family and two-family residential units with up to 6 dwelling units per net acre.

Based on these designations, the proposed “NX1” Neighborhood District zoning would not be found in conformance with the Comprehensive Plan designation of Business Park but would be found in conformance with the requested designation of Low Density Residential.

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

3. Staff Rationale: Given the location of the property within the area situated between East University Avenue and Interstate 235, Staff believes that the area is appropriate for the “NX1” Neighborhood Mix District, which would allow for residential structures containing between one and eight dwelling units. The “NX1” District would allow for a one-household dwelling, as proposed by the applicant, as well as two-household dwellings and/or rowhouse dwellings containing up to eight dwelling units.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the requested “NX1” District 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 Comprehensive Plan to revise the future land use designation from Business Park to Low Density Residential.

Part C) Staff recommends approval of the request to rezone the property from “EX” Mixed Use District to “NX1” Neighborhood District.

SUMMARY OF DISCUSSION

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

Francis Boggus made a motion for:

Part A) The requested “NX1” District be found 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 Comprehensive Plan to revise the future land use designation from Business Park to Low Density Residential.

Part C) Approval of the request to rezone the property from “EX” Mixed Use District to “NX1” Neighborhood District.

THE VOTE: 10-0

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Item 2

Request from JM Wolf Properties (owner), represented by Matthew Karamanlis (officer), for review and approval of a Public Hearing Site Plan “Hartford Ave Storage”, for property at 1929 Southeast 14th Court, for the following Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow waiver of the requirement for placement of all electrical, telephone, and cable transmission systems underground, per Section 135-9.2.1(E). (10-2021-7.98)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 1,944 square foot warehouse/garage use at the southwest corner of the site, with frontage on Hartford Avenue to the south and SE 14th Court to the west. Eventually, the applicant would like to expand and convert the facility to self-service storage in future phases of the project. 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: 1.34 acre (approximately 58,282 square feet).

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

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

5. Adjacent Land Use and Zoning:
North – “I1”; Uses are undeveloped land.

South – “MX3-V”; Use is RV Sales.

East – “I1”; Use is a trucking and materials facility.

West – “I1”; Uses are undeveloped land and a tire shop.

6. General Neighborhood/Area Land Uses: The subject property is located on the north side of Hartford Avenue to the east of SE 14th Street. The surrounding area contains a mix of vacant lots, various industrial uses, and vehicle rental/sales/maintenance uses.

7. Applicable Recognized Neighborhood(s): The subject property is not within a designated neighborhood. However, the subject site is within 250 feet of the Pioneer Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on September 20, 2021 and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 27, 2021 (10 days prior to the public hearing) to the Pioneer 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. The Pioneer Park Neighborhood Association mailings were sent to Scott Jimmerson, 1907 East Lacona Avenue, 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

1. Overhead Utilities: The applicant has requested a waiver of the undergrounding of utilities requirement per section 135-9.2.1.E. The applicant has submitted a proposed project value between $150,000-$200,000. The applicant has reached out to MidAmerican Energy for a project estimate to underground those utilities prior to the August 5, 2021, Planning and Zoning Commission meeting. However, at the time of that meeting, the applicant had not received an estimate and removed this request from the agenda. Since that meeting, MidAmerican Energy has provided a cost estimate off between $120,320 - $150,400 to underground the utilities. A cost that is approximately 75-100% of the total cost of the project. Staff supports the request as undergrounding utilities in this case would not be reasonably practicable.

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:**

Francis Boggus 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: 10-0**

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**Item 3**

Request from Drake University (owner), represented by Vanessa Macro (officer), for vacation of an east/west alley Right-of-Way within the block bounded by University Avenue on the north, 29th Street on the east, and Brattleboro Avenue on the south, to allow the Right-of-Way to be assembled with the parcels adjacent to the north and south. (ROWV-2021-000003)

**STAFF REPORT TO THE PLANNING COMMISSION**

1. **GENERAL INFORMATION**

2. **Purpose of Request:** The proposed vacations would facilitate consolidation of the parcels for a new development that would span both side of the existing alley Right-of-Way.

3. **Size of Site:** The requested segment of Right-of-Way encompass a total 4,200 square feet of area.

4. **Existing Zoning (site):** “MX2” Mixed Use District.

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

6. **Adjacent Land Use and Zoning:** 
North – “P2”; Use is a private university.

South – “N5”, Use is single-family residential.

East – “MX2”; Use is a educational facility and university parking lot

West – “MX2”, Use is retail department store.

6. General Neighborhood/Area Land Uses: The applicant’s property consists of multiple lots fronting University Avenue to the north of the Right-of-Way and multiple lots fronting Brattleboro Avenue to the south of the Right-of-Way. 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 Drake neighborhood association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on September 17, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the hearing) and September 27, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on October 1, 2021.

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. All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: None.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. **Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns.

**III. STAFF RECOMMENDATION**

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

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Francis Boggus made a motion for approval of the requested Right-of-Way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

**THE VOTE:** 10-0

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Item 4

Request from Greater Des Moines Botanical Garden (lessee), represented by Kimberly Perez (officer), for the following regarding property owned by the City of Des Moines that is located in the vicinity of 909 Robert D. Ray Drive:

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 Comprehensive Plan to revise the future land use designation from Park/Open Space to Public/Semi-Public. (ZONG-2021-000033)

C) Rezone property from “P1” Public, Civic, and Institutional District to “P2” Public, Civic, and Institutional District, to allow site modifications. (ZONG-2021-000025)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to rezone the subject property to “P2” Public, Civic, and Institutional District to facilitate expansion of the Greater Des Moines Botanical Garden including development of formal display gardens, an amphitheater, and construction of a café building.
Any future construction or redevelopment of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

2. **Size of Site**: 545,000 square feet (12.5 acres).

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

4. **Existing Land Use (site)**: The subject property consists of Greater Des Moines Botanical Garden conservatory (dome) building, greenhouses, formal display gardens, and surface parking.

5. **Adjacent Land Use and Zoning**:
   - **North** – “P1” and “RX2”; Use is Iowa Lutheran Hospital.
   - **South** – “PUD” and “DXR”; Uses are multiple household residential, surface parking lots, and the Bridge District PUD.
   - **East** – “NX2” and “P1”; Uses are multiple household residential and Burke Park.
   - **West** – “P1”; Uses are the John Pat Dorrian Multi-Use Trail, the Des Moines River, and public/open space including Riverwalk Dog Park.

6. **General Neighborhood/Area Land Uses**: The subject property is located at the north terminus of Robert D. Ray Drive and between East University Avenue and Interstate 235. The area consists of a mix of educational, parks/open space, and one- and two-household residential uses.

7. **Applicable Recognized Neighborhood(s)**: The subject property is within the Capitol Park Neighborhood and within 250 feet of the Historic East Village Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 20, 2021 and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the public hearing) and September 27, 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 Capitol Park Neighborhood mailings were sent to Christopher Civitate, 1346 East 12th Street, Des Moines, IA 50305. The Historic East Village Neighborhood was emailed the agenda on September 28, 2021.

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:** On May 9, 2011, by Roll Call 11-822, the City Council approved vacation of the parkland surrounding the Des Moines Botanical Center and of the park road (known as Robert D. Ray Drive). At that time, the City Council entered into a 25-year lease (with two 25-year renewal options) with the Greater Des Moines Botanical Garden (GDMBG), which is now operating the facility. This lease excludes a 20-foot-wide corridor for the John Pat Dorrian Multi-Use Trail to ensure that the trail remains unobstructed.

On February 7, 2013, by Docket No. 10-2013-7.65, the Plan and Zoning Commission conditionally approved a Site Plan “Greater Des Moines Botanical Garden” under design guidelines within the “D-R” District to allow redevelopment of the Des Moines Botanical Center for outdoor botanical gardens including removal of an existent through-access for vehicles and pedestrians on the Robert D. Ray Drive park road.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Parks and Open Space.

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 applicant is proposing to rezone the subject property from “P1” District to “P2” District. The Zoning Ordinance states that the “P1” District is intended for open space, including permanent parks and recreation areas. The Zoning Ordinance also states that the “P2” District is intended for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure includes public or private infrastructure, including rail corridors and utility corridors or sites.

   The existing Parks and Open Space designation is described as follows:

   *Parks and Open Space*
   
   Land or water areas generally free from development. Primarily used for park and recreation purposes but may also indicate private or public open spaces reserved for natural resource conservation.
In order for the proposed rezoning to “P2” District to be in conformance with PlanDSM, the future land use designation must be revised to Public/Semi-Public. The existing Parks and Open Space designation is described as follows:

**Public/Semi-Public**
Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

Based on these designations, the proposed “P2” District zoning would not be found in conformance with the Comprehensive Plan designation of Parks/Open Space but would be found in conformance with the requested designation of Public/Semi-Public.

2. **Large Scale Development Plan:** Chapters 134 and 135 of the City Code requires that rezoning of tracts larger than 5 acres in area be considered under provisions in Chapter 135, Article 5 for Large-Scale Development. The intent of this requirement is to ensure that consideration is given to how the site provides site connectivity and utilities in relation to adjoining properties. Sections 135-9.3.1.A and 135-9.1.3 allow the Development Services Director to administratively review and approve Large-Scale Development plans.

The submitted Large-Scale Development Plan provides a master plan for the expanded Botanical Garden use. The proposed site modifications are located to the north of the existing buildings and garden displays. The Large-Scale Development plan demonstrates that the majority of proposed site modifications would consist of formal garden displays designed for enrichment purposes which would reduce the expanded use of the site on the surrounding area.

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

4. **Drainage/Grading:** Any site plan for an area over 10,000 square feet would require compliance with the stormwater management requirements of the City Code. Any improvements over an acre in area would require submittal of a Storm Water Pollution Protection Plans (SWPPP) with approval by Iowa DNR.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the requested “P2” District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space.

Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification from Park/Open Space to Public/Semi-Public.
Part C) Staff recommends approval of the request to rezone the property from “P1” Public, Civic, and Institutional District to “P2” Public, Civic, and Institutional District.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Francis Boggus made a motion for:

Part A) The requested “P2” District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space.

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification from Park/Open Space to Public/Semi-Public

Part C) Approval of the request to rezone the property from “P1” Public, Civic, and Institutional District to “P2” Public, Civic, and Institutional District.

THE VOTE: 10-0

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Item 5

Request from Gustavo Carrillo Carrillo (owner), for the following regarding property that is located in the vicinity of 1040 East County Line Road:

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates the property as Medium Density Residential.

B) Rezone property from “NM” Neighborhood District to “NX2” Neighborhood Mix District, to allow construction of a one-household dwelling. (ZONG-2021-000028)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property is zoned “NM” District, which does not allow residential building typologies for single family, pursuant to City Code Chapter 135: Planning and Design Ordinance. The existing vacant lot was zoned “NM”
District in anticipation of future expansion of the mobile home park. The applicant is proposing to construct a 2-story single-household residential use. For this to occur, the property must be rezoned to a district that allows one household residential building typologies other than a mobile home. The property is requested to be rezoned “NX2” District.

2. **Size of Site:** 216.5 feet by 281.3 feet (61,007 square feet or 1.401 acres).

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

4. **Existing Land Use (site):** The property consists of vacant land and possible partial encroachment of a neighbors shed and access drive.

5. **Adjacent Land Use and Zoning:**
   - **North** – “NM”; Use is a mobile home park.
   - **South** – “R”; Uses are one household residential in Warren County.
   - **East** – “NM”; Use is one household residential.
   - **West** – “NM”; Use is one household residential.

6. **General Neighborhood/Area Land Uses:** The subject property is located within a band of residential uses, generally located between the Highway 5 to the south and Army Post Road to the north along the north side of East County Line Road.

7. **Applicable Recognized Neighborhood(s):** The subject property is not located within a recognized neighborhood association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on September 17, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the hearing) and September 27, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on October 1, 2021.

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

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

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.
II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The applicant is requesting a rezoning to the “NX2” Neighborhood Mix District, which is consistent with the future land use designation for the property, “Medium Density Residential”. Plan DSM describes this designation as follows:

   Medium Density Residential: Areas developed with mix of single family, two family and multi-family residential up to 17 dwelling units per net acre.

   The applicant is proposing to rezone the subject property to the “NX2” District. The Zoning Ordinance describes this district as “is intended for a mix of single household houses with appropriately scaled and detailed multiple-household building types in the same neighborhood typical of bungalows and two-story Victorian or Arts and Crafts houses, pursuant to House D building type in section 135-2.14 of this code”. House Type D is the only detached single family household building type allowed in this district by Chapter 135.

2. Planning and Design Ordinance: Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the determination that the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates the property as Medium Density Residential.

Part A) Staff recommends approval of the proposed rezoning to “NX2” Neighborhood Mix Use District from “NM” Neighborhood District, to allow construction of a one-household dwelling.

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:

Francis Boggus made a motion for:

Part A) Approval of the determination that the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates the property as Medium Density Residential.

Part B) Approval of the proposed rezoning to “NX2” Neighborhood Mix Use District from “NM” Neighborhood District, to allow construction of a one-household dwelling.
THE VOTE: 10-0

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Item 6

Request from River Point West, LLC (owner), represented by Doug Saltsgaver (consultant), for review and approval of a Public Hearing Site Plan “Nexus II,” for property located at 425 Southwest 11th Street, for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4.B and 135-9.3.1.B:

A) To allow on-site surface parking when parking is only permitted within a building in a “DX2” Mixed Use District, per City Code Section 135-2.4.3.C.17.
B) To allow a primary frontage build-to-zone of up to 29 feet, which is approximately 14 feet beyond the maximum build-to-zone threshold of 15 feet, per City Code Section 135-2.4.3.A.3.
C) To allow one (1) principal entrance on the primary façade, which is 50% less than the two (2) that are required, per City Code Section 135-2.4.3.19.
D) To waive the requirement that entrances along the primary frontage of a building must be recessed between 3 and 8 feet from the portion of the primary frontage façade closest to the street, per City Code Section 135-2.4.3.20.

(SITE-2021-000017)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow construction of a new 5-story apartment building (Downtown General building type for a Residential use). 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: 2.656 acres.


4. Existing Land Use (site): The subject property is an undeveloped parcel.

5. Adjacent Land Use and Zoning:

North – “DX2”, Use is multiple-household residential.

South – “Riverpoint Flex Office Park West PUD”, Uses are multiple-household residential and office.

East – “DX2”, Uses are multiple-household residential and a daycare facility.

West – “Slate at Gray’s Landing PUD”, Use is an undeveloped parcel.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the northeast corner of the Southwest 11th Street and Murphy Street intersection. The surrounding area contains mostly multiple-household residential uses, with some small-scale commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Downtown Des Moines Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on September 17, 2021 and the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 27, 2021 (10 days prior to the 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 requested rezoning.

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

8. **Relevant Zoning History:** NA.

9. **PlanDSM Future Land Use Plan Designation:** Downtown Mixed-Use.

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

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

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

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

      - Zoning restrictions at the time of the proposal;
The city’s comprehensive plan;

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

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

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

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

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

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

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  - An evaluation of the character of the surrounding neighborhood, such as:
    
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

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

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

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

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

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

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

II. ADDITIONAL INFORMATION

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

   A) Allow on-site surface parking when parking is only permitted within a building in a “DX2” Mixed Use District, per City Code Section 135-2.4.3.C.17. The developer is proposing approximately 119 indoor, underground parking stalls and an additional 50 surface parking stalls in the rear of the building to serve approximately 169 units (1 space per unit). This is the last site to develop within the block. The other 3 parcels that compose the block bounded by Southwest 11th Street to the west, Murphy Street to the south, Southwest 9th Street to the east, and Tuttle Street to the north all contain buildings that have surface parking in the rear. Staff is supportive of this Type 2 Design Alternative because it fits within the character of the surrounding area.

   B) Allow a primary frontage build-to-zone of up to 29 feet, which is approximately 14 feet beyond the maximum build-to-zone threshold of 15 feet, per City Code Section 135-2.4.3.A.3. Southwest 11th and Murphy Streets meet at an unconventional 82° angle. The building is proposed to be constructed at a right angle so that it is parallel to Murphy Street. However, this arrangement creates
additional space along Southwest 11th Street, particularly with a pre-established bumpout at the street corner that expands the building’s setback significantly. Within the Type 2 Design Alternative request, the developer has noted this site constraint, as well as increased construction costs and awkward living spaces that would result from designing the building to be parallel to both Southwest 11th and Murphy Streets, justifying the Type 2 Design Alternative. Staff recognizes these site constraints and is supportive of this Type 2 Design Alternative because the building’s street-level design elements (building massing, transparency, streetscape) work to create an urban edge along this façade in the absence of a 15-foot build-to-zone.

C) Allow 1 principal entrance on the primary façade, which is 50% less than the 2 that are required, per City Code Section 135-2.4.3.19. The proposed building includes a principal entrance at the corner of Southwest 11th and Murphy Streets, but no other principal entrances along this façade. However, the proposed building design features a transparent entryway and outdoor patio perpendicular to the street at the immediate northwest corner of the building, with steps and an accessibility ramp leading from the Southwest 11th Street façade. This design feature creates a plaza-like space that invites pedestrians from the Southwest 11th Street façade and serves a similar purpose as a traditional principal entrance. Staff is supportive of this Type 2 Design Alternative since alternative building programming features have created a unique and functional building design that does not detract from the goals of the City Code.

D) Waive the requirement that entrances along the primary frontage of a building must be recessed between 3 and 8 feet from the portion of the primary frontage façade closest to the street, per City Code Section 135-2.4.3.20. The proposed principal entrance along the primary frontage at the corner of Southwest 11th and Murphy Streets does not contain any recessing. However, this entrance already has an approximately 25-foot setback from the street Right-of-Way for reasons described in Part B of this section. The developer is proposing an elevated pedestrian plaza that accomplishes the same goals as a recessed entrance. Staff is supportive of this Type 2 Design Alternative since the developer has unique site constraints and has provided an alternative design that effectively recesses the principal entrance from the street.

2. Staff Rationale: Staff is supportive of the granting of the requested Design Alternatives. This is based on the determination that they are all appropriate given the neighborhood context, configuration of the property lines, topography of the site, and alternative design features proposed.

III. STAFF RECOMMENDATION

Staff recommends approval of the Public Hearing Site Plan and the Design Alternatives requested in Parts A, B, and D, subject to any comments by the Urban Design Review Board, and 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:

Francis Boggus made a motion for approval of the Public Hearing Site Plan and the Design Alternatives requested in Parts A, B, and D, subject to any comments by the Urban Design Review Board, and compliance with all administrative review comments.

THE VOTE: 10-0

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Item 7

Request from Climate Controlled Self Storage LLC (owner), represented by Bart Turk (consultant), for review and approval of a Public Hearing Site Plan “Des Moines Climate Controlled Self Storage,” for property located at 503 SE 12th Street, for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4B and 135-9.3.1B:

A) To allow waiver of the requirement for placement of all electrical, telephone, and cable transmission systems underground along Scott Avenue, per City Code Section 135-9.2.1.E.

B) To allow an increase in primary build-to-zone from the required 0-5 feet to 30 feet on the northern building fronting East Martin Luther King, Jr. Parkway, per City Code Section 135-2.3.3.A.3.

C) To allow for reduction in primary frontage from the minimum required 95% to 53% on southern building fronting Scott Avenue, per City Code Section 135-2.3.3.A.2.

D) To allow on-site surface parking when parking is only permitted within a building in a “DX2” Mixed Use District, per City Code Section 135-2.3.3.C.17.

E) To allow the second driveway to be onto a primary street (Scott Avenue), when driveways are only allowed on primary streets when no improved alley or non-primary street exists, per City Code Section 135-6.12.2.B.

F) To allow waiver of the requirement for principal entrances on the primary frontage façade (East Martin Luther King, Jr. Parkway) with a minimum of one entrance required per 60 feet, per City Code Section 135-2.3.D.21.

(SITE-2021-000002)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct two self-service storage buildings in two phases. The first phase is a 29,600 square foot building fronting East Martin Luther King Jr. Parkway on the north edge of the site. The second phase will be an 8,800 square foot building at the southeast corner of the site fronting Scott Avenue. A site plan amendment will be required for the second phase building to be constructed since a design for the building was not provided at this time. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 1.98 acre (approximately 86,684 square feet).


4. Existing Land Use (site): The property is currently undeveloped land and a vacant residential property to the south fronting Scott Avenue.

5. Adjacent Land Use and Zoning:

   North – “DXR”; Uses are undeveloped land.

   South – “N3c”; Uses are undeveloped land and single family residential.

   East – “DX2”; Uses are park land.

   West – “I1”; Uses are municipal buildings.

6. General Neighborhood/Area Land Uses: The subject property is located on the south side of E. Martin Luther King Jr. Parkway to the west of SE 12th Street and north of Scott Avenue. The surrounding area contains a mix of vacant lots, various industrial uses, parkland, and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is within the Historic East Village Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on September 20, 2021, and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 27, 2021 (10 days prior to the public hearing) to the Historic East Village 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 Historic East Village Neighborhood was emailed the agenda on September 28, 2021.

8. Relevant Zoning History: None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown 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 Utilities: 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. There are currently existing lines on the western side of the property and distribution lines running east-west along Scott Avenue.

The applicant plans to underground utilities that run north-south along the western edge of the property. MidAmerican Energy Company provided a proposal to convert the north-south overhead service to underground with an estimated cost of $81,048.55.

MidAmerican Energy Company has stated that the undergrounding of the overhead mid-span distribution and transmission lines on Scott Avenue would not be feasible. Therefore, staff recommends waiver of the requirement for undergrounding of mid-span distribution and transmission lines along Scott Avenue.

2. Build-to-Zone: Section 135-2.3.3.A.3 of the Planning and Design Ordinance requires the primary build-to-zone to be 0-5 feet for Downtown Storefront buildings. The applicant is proposing a build-to-zone setback of 30 feet for the building along E. Martin Luther King Jr. Parkway. This is due to the proximity of existing public storm sewer and sanitary sewer running east-west along the northern edge of the parcel.

Staff believes that a 0–5-foot build-to-zone for the proposed northern building would not be practicable give the placement of the existing storm sewer and sanitary sewer lines.

3. On-Site Surface Parking: Section 135-2.3.3.C.17 of the Planning and Design Ordinance prohibits on-site surface parking in a “DX2” Mixed Use District. The applicant is proposing an on-site surface lot to allow for parking and maneuvering of vehicles for offloading or storage. Staff believes that an on-site surface lot is appropriate given the location of the site at the edge of downtown and with the character of the area.

4. Driveway Locations: Section 135-6.121.2 (B) of the Planning and Design Ordinance allows for driveways onto primary streets when no improved alley or non-primary street exists. The applicant is proposing two driveways. One onto SE 12 Street (non-primary) and one onto Scott Avenue (primary).
Staff believes that two driveways would be appropriate with the project being on the edge of downtown and the character of the area. The adjoining parcels to the west are parkland and staff does not foresee additional drive approaches being built.

5. **Principal Entrances:** Section 135-2.3.D.21 of the Planning and Design Ordinance requires principal entrances on the primary frontage façade at a minimum of one entrance per 60 feet of frontage. The applicant is asking to waive the requirement for principal entrances on the primary frontage façade along East Martin Luther King, Jr. Parkway. The principal entrance will be located on the eastern façade fronting SE 12 Street.

Staff believes that it would not be practicable to require public entrances on the East Martin Luther King, Jr. Parkway frontage façade with the proposed building setback of 30 feet. The applicant has agreed to place a primary entrance on the northern building fronting SE 12 street.

6. **Primary Frontage:** Section 135-2.3.3.A.2 of the Planning and Design Ordinance requires a minimum primary frontage of 95%. The applicant is asking to reduce the minimum required primary frontage from 95% to 53% for the southern propose building fronting Scott Avenue.

Staff believes that the reduction in required primary frontage on the southern building is reasonable with the layout of the proposed buildings and the planned frontage facing SE 12th Street.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternatives and Public Hearing Site Plan subject to compliance with all administrative 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:**

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

**THE VOTE: 10-0**
NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 8

Request from Best Food Mart Inc., represented by Natalie Carran (officer), for review and approval of a Public Hearing Site Plan “A-Mart Convenience” for the following Type 2 Design Alternatives and denied Type 1 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B) on property located at 4028 East 14th Street, to allow expansion of a Commercial Cottage Building Type for Retail Sales, Limited Use and Fueling Station. The subject property is owned by Bhajan Aulakh. (10-2021-7.126)

A) Allow a primary frontage build-to-zone of approximately 72 feet, which is approximately 52 feet beyond the maximum build-to-zone threshold of 20 feet, per Section 135-2.6.3(A)(3).

B) Allow parking and fueling station parking to be located in the front yard and side yard instead of the required rear or limited side yard, per Section 135-2.6.3(A)(8).

C) Waive the requirement for all electric, phone, cable television, and transmission systems to be placed underground, 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 renovation of and expansion of an existing 960-square foot building, resulting in a 2,470-square foot Commercial Cottage building type for Retail Sales, Limited and Fueling Station uses. The Site Plan would also allow for construction of three parking stalls on the southern portion of the subject property and two stalls on the northern portion of the subject property, including the fueling station on the eastern portion of the subject property. Please note, that with the parapet located on the eastern (street-facing) façade is not allowed within the Commercial Cottage typology regulations. However, due to the extent of the building addition, creating multiple different roofing planes and heights. Staff has granted a Type 1 Design Alternative to help shield these changes in roof heights.

2. Size of Site: 72,000 square feet (1.653 acres).

3. Existing Zoning (site): “MX3-V” Mixed Use District.

4. Existing Land Use (site): The subject property contains an existing 2,470-square foot building with a retail sales/fueling station use.

5. Adjacent Land Use and Zoning:

   North – “I1-V”, Uses are light industrial.
South – “MX3-V”, Use is commercial service and auto sales.

East – “MX3-V”, Uses consist of commercial services.

West – “N3a”, Use consists of vacant, undeveloped land.

6. General Neighborhood/Area Land Uses: The subject property is located along East 14th Street in an area that contains a mix of industrial and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda for the October 7, 2021 Plan & Zoning Commission meeting on September 20, 2021 and the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on August 9, 2021, which was 10 days prior to the August 19, 2021 Plan & Zoning Commission meeting. These notifications were sent to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Highland Park Neighborhood Association mailings was sent to Sherri Rosener, at 1206 Oak Park Ave, Des Moines, IA 50313.

8. Relevant Zoning History: On November 9, 2020, the City Council adopted Ordinance No. 15,941 to rezone the property from “MX1-V” Mixed Use District to Limited “MX3-V” Mixed Use District subject to the following conditions:

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

B) Accessory structures located on the Property shall be limited to those permitted in the MX1 Mixed Use District in accordance with Des Moines Municipal Code Chapter 135, Table 135-2.22-1.

On June 23, 2021, the Zoning Board of Adjustment approved a Conditional Use for the property to allow the sale of liquor, wine and beer, subject to the following conditions.

A) The sale of alcoholic liquor, wine and/or beer shall only be ancillary to a “Retail Sales, Limited” use, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of alcoholic liquor, wine, beer and/or tobacco products.

B) The business selling alcoholic liquor, wine and/or beer shall operate in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.
C) The business selling alcoholic liquor shall only display liquor in a locked case or behind a counter accessible only to employees, employ an electronic security cap or tag system on all containers of alcoholic liquor on display, or have more than one employee on duty at all times the business is open to the public.

D) The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

E) The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.

F) The business shall not dispense alcoholic beverages from a drive-through window.

G) Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

H) Parking areas provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

I) Any construction on the site shall be in compliance with all applicable Building and Fire codes, with issuance of all necessary permits by the Permit and Development Center.

J) If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use or the requirements contained in City Code Section 134-3.8.1, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.

9. **PlanDSM Future 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 APPICABLE INFORMATION

1. Primary frontage Build-to-Zone: Per Section 135-2.6.3[3], the required primary frontage build-to-zone is to be between 5 feet and 20 feet. The existing building is approximately 72 feet. However, based on the pre-existing conditions such as the existing building and site layout, it is not feasible to request the building be moved to be within this zone. Staff is supportive of the applicant’s request to waive the required build-to-zone regulations.
2. **Surface Parking in Front yard:** Per Section 135-2.6.3[8], surface parking, fueling station parking and customer parking is only permitted in the rear or limited side yard. The current/proposed location of the fueling station and fueling station parking is located in the front yard, however, based on the pre-existing conditions such as the existing building and fueling station layout, it is not feasible to request a fueling station to be relocated to the rear or limited side yard. Staff is supportive of the applicant’s request to allow parking in front of the building.

3. **Overhead Utilities:** The applicant has submitted a proposed project value of $350,000. MidAmerican Energy has provided a cost estimate that states it would cost $24,548.79 for the following:
   a. Furnish and install underground primary cable between the transformer and MidAmerican Energy's distribution system.
   b. Furnish and install the pad and pad mounted transformer to provide 120/240 volt, 400 amp, single-phase, three-wire service at the location shown on the drawing.
   c. Connect the primary and secondary cables at the transformer or pedestal.
   d. Furnish and install the applicable electric meter.

   This cost represents approximately 7% of the total cost of the project. Therefore, Staff is not supportive of the request to waive of the undergrounding of utilities.

**II. STAFF RECOMMENDATION**

Staff recommends approval of the Public Hearing Site Plan, subject to the following:

Part A) Staff recommends approval of the Type 2 Design Alternative for the primary frontage build-to-zone requirement.

Part B) Staff recommends approval of the Type 2 Design Alternative for parking requirement.

Part C) Staff recommends denial of the Type 2 Design Alternative for the request to waive undergrounding the existing overhead utility lines since the total cost of relocating utilities underground and replacing the existing wood poles would be approximately 7% of the total cost of the project.

**SUMMARY OF DISCUSSION**

Frank Dunn-Young presented staff report and recommendation.

Jason Van Essen stated staff has been pushing for utilities to be undergrounded if the cost is less than 10% of the project budget. Also, character of an area is important, these are things to consider as the commission deliberates the case.

Carolyn Jension asked if there are plans to underground other utilities in the area?
Frank Dunn-Young stated he does see updates being made to corridors incrementally as sites redevelop. The lines in front of this property are a little different in scale than the lines on the east side of the street, which makes the feasibly easier to achieve.

Chris Draper asked if the cost would be less for the applicant if others along East 14th Street also undergrounded their utilities at the same time?

Frank Dunn-Young stated that would be a question for MidAmerican Energy, this wouldn’t be an estimate put together by City staff.

Jason Van Essen stated there likely would be cases where the answer is yes and cases where the answer would be no. The question for the commission is what’s a reasonable burden of cost to the project as it relates to the setting of the area.

Will Page asked how many poles are involved and would there be any additional landscaping.

Frank Dunn-Young stated the applicant has proposed additional landscaping. This corridor is controlled by the DOT so some of the landscaping in the streetscape wouldn’t be feasible due to the nature of the corridor and clearance needed by the DOT. They are proposing landscaping in front of the fuel canopy with additional shrubs and a fence. Also, throughout the site they will be planting additional trees and adding other landscape that would be required by the City’s landscape standard.

Will Page asked how many poles are involved?

Frank Dunn-Young stated there would be a pole along the frontage and second line that cuts back along the south side of the property.

Jason Van Essen stated when looking at Google Street View, there are 2 poles along the frontage.

Johnny Alcivar asked if the undergrounding of utilities is required for commercial tax abatement.

Frank Dunn-Young stated it would be, but the applicant will not be applying for tax abatement.

Glenna Frank stated section 135 9.2.1, subsection E of the City Code states, all electrical, telephone and cable telephone transmission systems shall be placed underground whenever reasonably practicable.

Mike Stott 1421 South Bell Avenue, Suite 101, Ames, IA, representing SB&A Architects stated he would request the wavier of undergrounding utilities given the significant cost involved not being feasible for this small business. If they were required to underground, they would need to find other pieces to remove from the project.
Chris Draper asked where they would look to cut cost if they are required to underground?

Mike Stott stated something would come out of the building or the building get smaller, the scope of the project would need to change.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Carol Maher 701 Polk Blvd stated it’s hard to see where the $350,000 is going when the existing concrete parking lot is not being replace and the sidewalk along the property is in poor condition.

Mike Stott stated they are conforming with the City’s landscape standards. The applicant will be replacing the sidewalk and parts of the parking lot.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Carolyn Jension stated she does support Part A and B of the staff recommendation.

Chris Draper stated he is a fan of undergrounding utilities; this is a pole right off the road and is challenging with such a tight area. Would there be an alternative solution such as placing funds in escrow and figure out how to get more business involved without being an unreasonable cost.

Glenna Frank stated an escrow agreement is something staff could entertain with a recommendation by the commission and approval of the agreement from City Council. The concern would be how long would that escrow agreement last as staff hasn’t had the conversation around when a block or street wide undergrounding project would occur. Also, East 14th Street is controlled by the DOT and the City staff might not have control over a street wide project. She would caution approving an escrow agreement without a continuance to allow time for city staff to have conversation with the Traffic and Transportation Division.

Dory Briles asked if an escrow is being entertained, the commission would need to continue the item this evening?

Glenna Frank stated that would be her position now as staff couldn’t make a firm recommendation without the input from Traffic and Transportation.

Jason Van Essen stated he would agree with that given the time spent on analysis of the sidewalk escrow program.

Emily Webb asked if they money for escrow would be due upfront?

Glenna Frank stated yes, the funds are required upfront and would be held until the agreement expires or the funds get used.
Chris Draper asked what motion could he make today that would get the analysis started?

Johnny Alcivar stated if we are trying to focus on the macro, instead of the site plan we have in front of us tonight, we would have to allow time for city staff to come up with a potential solution the commission could use going forward.

Chris Draper stated he would support waiving the requirement in this case, but he asked 8 weeks ago how we could start analyzing this issue and it sounds like it hasn’t started.

Jason Van Essen stated he is currently analyzing a number of things within Chapter 135 for the next batch of amendments with undergrounding utilities being one of the top items.

Will Page stated he would suggest giving City staff more time to come up with a possible solution the commission could use going forward.

**COMMISSION ACTION:**

Carolyn Jension made a motion for approval of the Public Hearing Site Plan and the requested Type 2 Design Alternatives subject to the provision of a new public sidewalk along the entire East 14th Street frontage.

**THE VOTE:** 10-0

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**Item 9**

Request from Smokers Genie II, LLC (owner), represented by Kuljit Chauhan (officer), for the following regarding property that is located at 3733 Easton Boulevard:

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 Comprehensive Plan to revise the future land use designation from Neighborhood Mixed Use to Community Mixed Use. (ZONG-2021-000027)

C) Rezone property from “MX1” Mixed Use District to “MX3” Mixed Use District to allow reuse of the property for a fuel station use and to allow the property to seek Conditional Use approval for alcohol sales by a fuel station use. (ZONG-2021-000026)

**STAFF REPORT TO THE PLANNING COMMISSION**
I. GENERAL INFORMATION

1. Purpose of Request: The requested rezoning to “MX3” Mixed Use District would allow the vacant fuel station convenience store use to resume use as a fuel station and convenience store as well as to be eligible to request a Conditional Use from the Board of Adjustment for a Variance of the separation distance from Four Mile Community Center and for sale of alcoholic liquor, wine, beer, and/or tobacco products. As a fuel station use, no more than 40% of gross receipts from sales could be derived from the sale of alcoholic liquor, wine, beer, and/or tobacco products.

2. Size of Site: 13,086 square feet or 0.30-acre.

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

4. Existing Land Use (site): The property consists of a 2,646-square foot vacant convenience store building, fuel pump island, and paved surface parking.

5. Adjacent Land Use and Zoning:

   East - “MX1” & “N3a”; Uses are retail, one-household residential, and group living.
   West - “P2” & “F”; Uses are Four Mile Community Center, Four Mile Park, and Development Reserve.
   North - “MX1”, “F”, & “N3a”; Uses are a self-service car wash, Development Reserve, and one-household residential.
   South - “P2” & “F”; Uses are Four Mile Community Center, Four Mile Park, and Development Reserve.

6. General Neighborhood/Area Land Uses: The subject property is located in a small cluster of commercial uses located at the intersection of Easton Boulevard and East 38th Street. The surrounding area consists of primarily one-household residential uses, parks and open spaces, school, and community center uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Grays Woods Neighborhood and within 250 feet of the Sheridan Gardens Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 20, 2021 and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the public hearing) and September 27, 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 Grays Woods Neighborhood Association notices were mailed to Linda Adamson, 1330 East 41st Street, Des
Moines, IA 50317. The Sheridan Gardens Neighborhood Association notices were mailed to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

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:** On June 22, 2011, by Docket No. ZON2011-00108, the Zoning Board of Adjustment conditionally approved reuse of the site for a convenience store with fuel sales while providing a 4.17-foot landscaped setback from the north (front) property line and 8 off-street parking spaces.

On October 26, 2011, by Docket No. ZON2011-00179, the Zoning Board of Adjustment conditionally approved use of the 42-foot by 62-foot (2,605 square feet) building for a gas station/convenience store with sales of wine and beer. The property is located adjacent to (within 0 feet of) the Four Mile Community Center, which is considered a public park.

In late 2018, the subject property was identified as vacant by the Neighborhood Services Department. In mid-2019, the property owners removed the existing pole sign following mailed notification that the site had lost its non-conforming rights for a pole sign and use as a fuel station. The property owners were additionally informed an approved site plan would be required prior to any reuse of the site.

9. **PlanDSM Land Use Plan Designation:** Neighborhood Mixed Use.

10. **Applicable Regulations:** 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, and taking into consideration the criteria set forth in Chapter 18B 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 applicant is proposing to rezone the subject property from “MX1” District to “MX3” District. The Zoning Ordinance states that “MX1” District is intended for the mixed-use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods. The Zoning Ordinance also states that the “MX3” District is intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobile. This district accommodates higher intensity commercial uses at a smaller scale.

The existing Neighborhood Mixed Use designation is described as follows:

**NEIGHBORHOOD MIXED USE**
Small-scale mixed-use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service-oriented development. Low-medium density residential may be included in mixed use development.

In order for the proposed rezoning to “MX3” District to be in conformance with PlanDSM, the future land use designation must be revised to Community Mixed Use.

The Community Mixed Use designation is described 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.

Staff does not believe that the Community Mixed Use designation would be appropriate for this site. The Community Mixed Use designation is intended to be located along high-capacity transit corridors, such as University Avenue or Hubbell Avenue, and not along neighborhood collector streets, such as Easton Boulevard. Furthermore, the property is surrounded predominantly by areas designated as Low Density Residential on the Future Land Use Map.

2. Additional Information: In mid-2019, the subject property was identified as vacant for 6 months triggering loss of its non-conforming rights as a fuel station convenience store with allowed sale of alcoholic liquor, wine, beer, and/or tobacco products and the variance of the separation distance from 4 Mile Community Center. The “MX1” Mixed Use District does not permit fuel station uses. Any reuse of the site for a fuel station and/or convenience store requires rezoning to the “MX3” Mixed Use District and an approved site plan. Should the subject property be rezoned to “MX3” Mixed Use District, it would be eligible by-right to resume a fuel station use.

Should the property be rezoned to “MX3” Mixed Use District, the fuel station use would be eligible to seek a Conditional Use from the Board of Adjustment that would allow for a Variance of the separation distance from Four Mile Community Center and the sale of alcoholic liquor, wine, beer, and/or tobacco products. As a fuel station use, no more than 40% of gross receipts from sales could be derived from the sale of alcoholic liquor, wine, beer, and/or tobacco products.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning be found in not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.
Part B) Staff recommends denial of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use since the Community Mixed Use designation is intended to be located along high-capacity transit corridors, such as University Avenue or Hubbell Avenue, and not along neighborhood collector streets, such as Easton Boulevard.

Part C) Staff recommends denial of rezoning the property to “MX3” Mixed Use District since the “MX3” District is not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.

SUMMARY OF DISCUSSION

Kyle Larson presented staff report and recommendation.

Andrew Hermsmeier with World Connect Energy Services, representing the applicant, presented a Power Point presentation to the commission.

Johnny Alcivar asked if they are planning to keep the existing fuel pumps.

Andrew Hermsmeier stated yes, all they will be doing is adding the canopy and updating the fuel dispensers.

Abby Chungath stated since the nature of the request is a rezoning, why this site and not a site along a more commercial corridor.

Andrew Hermsmeier stated the site is specific to the other store right down the street that would share the same brand and loyalty to customers.

Jason Van Essen stated another option for this site would be MX2 which would allow fuel sales as a conditional use but would not allow sale of liquor.

Chris Draper asked what would drive their business, alcohol or fuel sales?

Andrew Hermsmeier stated it would be a little bit of both. They are trying to create a safe and convenient destination.

Chris Draper asked with the current zoning, can they have a convenience store that sells liquor with no fuel?

Jason Van Essen stated they could have limited retail without the sale of fuel and could seek a condition use permit from the Zoning Board of Adjustment for sale of beer and wine, but not liquor.

Khulji Chauhan representing Smokers Genie stated they are not looking for a liquor license for this location, just beer and wine.

Chris Draper asked if providing gas is a mandatory element of the business?
Khulji Chauhan stated yes as it helps attracts customers to the location.

Johnny Alcivar asked the applicant if they have any opposition to the MX2 zoning?

Khulji Chauhan asked if the MX2 zoning would allow the convenient store and fuel sales?

Jason Van Essen stated the primary difference between MX2 and MX3 is the option of asking for hard liquor sales. Fuel sales is a conditional use in the MX2 District, as is beer and wine sales. The applicant has to go before the Zoning Board of Adjustment either way.

Khulji Chauhan stated he would be ok with MX2 zoning.

Todd Garner asked if the change in zoning would require site plan approval?

Jason Van Essen stated they would need a site plan and would be required to bring the site into compliance with current standards.

Todd Garner asked if the site plan would come back in front of the Plan and Zoning Commission.

Jason Van Essen stated it would if there is a need for any Type 2 design alternatives.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Chris Draper asked what is the traffic here relative to what would be suitable for this type of zoning change?

Jason Van Essen stated MX3 is the most auto oriented of the 3 MX districts (MX1, MX2, MX3) and allows most intense use types and development.

Emily Webb asked if city staff would have the same concerns with MX2 zoning.

Jason Van Essen stated the value of MX2 would be the conditional use criteria and process, which would allow the conditional use to be revoke if the use become a nuisance.

**COMMISSION ACTION:**

Johnny Alcivar made a motion for:

Part A) The proposed rezoning be found in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.
Part B) Approval of rezoning the property to “MX2” Mixed Use District.

**THE VOTE: 9-1 (Will Page voted in opposition)**

Item 10

Request from Menard, Incorporated (owner), represented by Nicholas Brenner (officer), for review and approval of a Public Hearing Site Plan “Menards Expansion”, for property located in the vicinity of 6000 Southeast 14th Street, for a Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, to allow expansion of an outbuilding within an “CX-V” Mixed Use District while retaining an off-street parking lot that does not meet the minimum interior parking lot landscape standards, per City Code Section 135-7.9.2.A. (10-2021-7.18)

**STAFF REPORT TO THE PLANNING COMMISSION**

1. **GENERAL INFORMATION**

1. **Purpose of Request:** The proposed outbuilding addition and site improvements are requested to expand the storage yard of the existing Menard’s home improvement / retail store.

2. **Size of Site:** Approximately 20.8 acres.

3. **Existing Zoning (site):** Limited “CX-V” Mixed Use District.

4. **Existing Land Use (site):** The property contains a Menard’s home improvement/retail store.

5. **Adjacent Land Use and Zoning:**

   **North** – “N3a”, Uses are one-household residential dwellings.

   **South** – “RX1”, Uses are multi-household residential dwellings.

   **East** – “MX3-V”, Uses are restaurant, retail, and bowling alley uses along the Southeast 14th Street major commercial corridor.

   **West** – “N3a”, Uses are one-household residential dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is generally located along the Southeast 14th Street major commercial corridor in an area that transitions from the Menard’s retail business to a low-density residential area to the
north and west. It also contains a one-household dwelling along Southeast 8th Street and/or Hart Street.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the South Park Neighborhood and within 250 feet of the Easter Lake Area Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on September 17, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the hearing) and September 27, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on October 1, 2021.

All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The South Park Neighborhood mailings were sent to Jan Goode, 4501 Southeast 6th Street, Des Moines, IA 50315, and the Easter Lake Area Neighborhood mailings were sent to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

8. **Relevant Zoning History:** On May 24, 2021, by Ordinance 15,929, the City Council rezoned the existing Menard’s site at 6000 Southeast 14th Street from MX-V Mixed Use District to CX-V Mixed Use District and the property locally known as 5907, 5911 & 5917 Southeast 8th Street, and 801 Hart Street from N3a Neighborhood District to CX-V Mixed Use District classification, subject to the following conditions:

1. That the development shall be carried out in accordance with the Largescale Development Plan presented to the Plan and Zoning Commission;
2. That no outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing;
3. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures;
4. Any use of the Property for a bar or a liquor store shall be prohibited;
5. Any commercial use of the Property shall be in conformance with an approved site plan that demonstrates that the entire site is in conformance with the current landscaping standards contained in City Code Chapter 135. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.)
6. Any commercial expansion on the Property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements;
7. All necessary permits shall be obtained for the construction of any building
or wall upon the Property;

8. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the City’s Planning Administrator, certifying that the Property has been improved in substantial conformance with the approved site plan.

9. **PlanDSM Future Land Use Plan Designation:** Community Mixed Use within a Regional Node.

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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

- Encourage adequate provision for surface and subsurface drainage, 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. General Requirements: The Site Plan was reviewed administratively for all standard requirements such as building typology, building materials, stormwater management, grading, tree removal and mitigation, landscaping, and utilities. The Site Plan is subject to all administrative comments in this review. There have been a number of administrative alternate design requests granted which include:

   a. 29 gauge metal panel on an out building where typically a 22 gauge metal panel would be required.

   b. Height of the outbuilding to be 4.5 feet (30%) taller than the maximum one-half story less than the principal building, allowed by code.

   c. Relocation of the guard shack in front of the primary structure.

2. Design Alternatives: The developer has requested review and approval of Design Alternate to allow interior parking lot landscaping which does not meet the interior parking lot landscape standard requiring a minimum landscape island within every 9th parking space and 30% shading requirement of the interior lot per section 135-7.9.2.A.

   Due to parking lot modifications as part of the Menards expansion, the applicant has indicated that they are proposing 10 new islands at the terminal ends of the parking rows bringing the total number of Islands from 23 islands to 33 islands. An approximately 1200 square-foot buffer with 7 trees is proposed as a divider between the parking lot and storage yard access drive and accounts for a majority of the new islands that are indicated in the narrative. The following table summary shows a deficiency of 53 planter islands but accepting the large island as an alternate design in lieu of 7 islands would reduce this total to 46 interior islands deficient. The table also shows a deficiency of approximately 4,770 sq. ft. of interior planter island area assuming 1200 sq. ft. for the large alternate design island and 25 sq. ft. for each existing island that is currently encapsulated by concrete. They typical island is 5-foot by 17-foot with a minimum area of 85 square feet.
Interior Planting Island Calculation and Summary

<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>In accordance with Chapter 135 -7.9.A, a landscape island is required for every ninth parking space with a result of no more than eight continuous parking stalls in a row without a landscape island and a minimum 30% canopy coverage.</td>
<td></td>
</tr>
<tr>
<td>Total # of Existing Islands (square footage)</td>
<td>23 (unknown – assume 25 sq. ft. each)</td>
</tr>
<tr>
<td>Total # of Islands Proposed (square footage)</td>
<td>1 (approximately 1200 sq. ft.)</td>
</tr>
<tr>
<td>Total # of Islands Required (square footage)</td>
<td>77 (6,545 sq. ft.)</td>
</tr>
<tr>
<td>Total # of Islands Deficient (square footage)</td>
<td>53 (4770 sq ft.)</td>
</tr>
<tr>
<td>30% Canopy Coverage required for Parking</td>
<td>18% for total site</td>
</tr>
</tbody>
</table>

The applicant is concerned that providing additional interior parking lot islands would further reduce the number of parking spaces beyond what they had anticipated for their proposed site expansion. The site modifications for the project reduces the number of parking stalls from 525 to 469 whereas providing the additional 53 planter islands (inclusive of the 10 proposed) would further reduce the total number of parking stalls to 416. By code the property requires 415 parking stalls satisfying the minimum parking requirement.

A majority of the current planter islands do not meet the minimum dimensions of 5-foot by 17-foot landscape as required by code therefore many of the existing islands would need to be modified to meet this minimum requirement for the optimal growth potential of the overstory trees. The applicant has indicated that these modifications will take weeks to perform in the middle of their busiest retail season and impact their customers directly. They have indicated that parking lots within 250 feet of this property are very similar to what they are proposing and adding the interior islands is both impracticable and undesirable for their business.

Access drives on new and existing sites are expected to provide overstory trees every 30 lineal feet on each side of the drive. As Menards owns the approximately 300-foot-long access drive which fronts two other developments, it would be typical to provide the overstory trees 30 foot on center with the renovations proposed.

Staff does not concur with the applicant’s desire to forego the required interior lot landscape island improvements. The quantity of parking spaces that would be compromised would not present an impact on the minimum parking requirement. Additionally, the installation of interior islands could be done in phases so that the entirety of the parking lot is not impacted during the site improvements. This would help alleviate the impacts on the parking lot during the hours the store is open. Staff
recommends an alternate design which would allow the spacing of planters to be placed in every 11 parking stalls rather than every 9 parking stalls required by code.

It is important to provide the mitigating effect of the tree shading on the expansive parking lot and having the planters would help to further reduce the amount of impervious surface and help to achieve the 30% canopy coverage. While staff appreciates the applicant’s proposal to reduce the existing paving condition, the provision of the interior islands are critical to meeting the intent of the Ordinance. The interior parking lot landscape standard has been appealed to, reviewed, and upheld by the Planning and Zoning Commission with conditions at a number of sites within the last year. Staff would also like to emphasize the need for over story tree plantings on each side of the access drive from the street to the store located within the same parcel.

3. Staff Rationale: Staff believes that the developer has proposed a quality expansion of the existing retail store. The developer would be making a substantial investment to the storage yard expansion by improving the site with a building addition and upgrades to landscaping.

Staff does not support waiver of the required interior landscaping. This is based on the finding that other than the additional cost, the provision of the required islands would not adversely impact the parking demand and present congestion, but would rather further the intent of the Ordinance to minimize impervious surface and provide necessary shading canopy over time to reduce the heat island effect. Staff is supportive of an alternate design that would allow a planter island every 11th parking stall as opposed to every 9th parking stall.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative for waiver of interior lot landscaping.

Staff recommends approval of the Public Hearing site plan and an amended alternate design subject to the following:

1. Provide the required interior lot landscape and overstory tree generally at every 11th parking stall to the satisfaction of the Planning and Urban Design Administrator.
2. Provide one tree every 30 lineal feet on each side of the access drive to the satisfaction of the Planning and Urban Design Administrator.
3. Each existing planter shall be amended to have minimum planter area of 5-foot by 17-foot or 85 square feet of soil area.
4. Compliance with all administrative comments.
SUMMARY OF DISCUSSION

Frank Dunn-Young presented staff report and recommendation.

Carolyn Jension asked what the impetus is for not holding them to the landscape standards?

Jason Van Essen stated they have concerns about operations as they will remain open during construction. We thought they could do some phasing in as they understand tearing up the whole parking lot is problematic.

Johnny Alcivar asked if the previous site plan was following the landscape islands for every 9 parking spaces?

Frank Dunn-Young stated this is a continuation of the rezoning and large-scale development plan, which is what the Commission saw previously.

Jason Van Essen stated at the zoning hearing, staff had mentioned landscaping would be something further discussed with the details being sorted out during the site plan review.

Nick Brenner 5101 Menards Drive, Eau Clair, WI representing Menards stated the landscape islands have been a concern for Menards since the beginning. They try to do everything they can to keep these remodels away from the vast majority of their customers due to operation and safety concerns. They would need to run irrigation to these islands, which would require them to saw cut the middle of the drive aisles causing them to patch with concrete and the shifting that would take place with all 4 seasons is a concern to them. Also, with this store being very busy, they would like to save as many parking spots as possible. They will be adding 50 new trees, a good number of shrubs that’s on top of the already 200 plus trees they’ve planted since opening the store.

Abby Chungath asked if they would be running irrigation to the end cap islands they are proposing?

Nick Brenner stated correct, there are 5 of those and a much easier connection.

Chris Draper asked if making the end caps bigger are a possibility since they are losing a good number of trees?

Nick Brenner stated trees aren’t the issue, it would be the actual construction of the islands.

Chris Draper asked if staff’s issue was the trees or the heat island effect?

Jason Van Essen stated trees are not only for aesthetics but are also valuable to the heat island effect.
Dory Briles asked if they were opposed to trees along the access drive?

Nick Brenner stated they wouldn’t be opposed to trees along the access drive, especially if that helps them get over the hurdle of the landscape islands.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one present or requested to speak.

Dory Briles asked if the additional landscape islands were waived, what’s percentage of shading would they be at?

Jason Van Essen stated until they have an idea of what’s constructed, it would be hard to calculate the canopy shading.

Frank Dunn-Young stated for the overall site, they are at 18% canopy coverage. When it comes to parking lots, staff does look for 30% canopy coverage. If they stuck with code requirements, they would be looking at 77 landscape islands which would have a sizeable contribution to meet that requirement if not exceeding it.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Johnny Alcivar asked what resolution was made with the VA building at Southridge.

Frank Dunn-Young stated they did not wish to install the interior landscape islands. The Plan and Zoning Commission recommended 1 tree for every 11 stalls.

Jason Van Essen stated the proposed Kohls at Merle Hay mall ended up with some aisle only having 1 tree per 11 parking stalls.

**COMMISSION ACTION:**

Francis Boggus made a motion for:

**Denial** of the requested Type 2 Design Alternative for waiver of interior lot landscaping.

**Approval** of the Public Hearing site plan and an amended alternate design subject to the following:

1. Provide the required interior lot landscape and overstory tree generally at every 11th parking stall to the satisfaction of the Planning and Urban Design Administrator.
2. Provide one tree every 30 lineal feet on each side of the access drive to the satisfaction of the Planning and Urban Design Administrator.
3. Each existing planter shall be amended to have minimum planter area of 5-foot by 17-foot or 85 square feet of soil area.
4. Compliance with all administrative comments.

THE VOTE: 10-0

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Item 11

Request from 97 Indiana Holdings, LLC (owner), represented by Breanne Barnum (officer), for review and approval of a Public Hearing Site Plan “Barnum Factory,” for property located at 97 Indiana Avenue, for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4B and 135-9.3.1B, to waive the requirement to install public sidewalks, per City Code Section 135-8.5.2. (SITE-2021-000026)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is requesting to waive the requirement to install public sidewalk along the Indiana Avenue and Ohio Street frontages, which is required to be constructed in accordance with the previously approved site plan. Design Alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 1.807 acres.

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

4. Existing Land Use (site): The property is used as an office, storage, and artist workspace. Additionally, the property is the site of a temporary haunted house attraction during the Autumn months.

5. Adjacent Land Use and Zoning:

   North – “I1”; Use is materials storage.
   South – “I1”; Use is medical office.
   East – “I1”; Use is office.
   West – “I1”; Uses are vehicle storage and an undeveloped parcel.

6. General Neighborhood/Area Land Uses: The subject property is located along the north side of Indiana Avenue, in between Maine and Ohio Streets.

7. Applicable Recognized Neighborhood(s): The subject property is located within the River Bend Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 17, 2021 and by
mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 27, 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. The River Bend Neighborhood notices were sent to Kathy Hellstern, 803 Hickman Road, Des Moines, IA 50314.

8. Relevant Case History: On May 4, 2017, Site Plan 10-2017-7.79 was approved by the Plan and Zoning Commission to allow redevelopment of the site for offices, warehousing, and miscellaneous creative space, subject to the following conditions:

A) The Indiana Avenue drive approach and the pavement of the associated loading dock area shall be reduced to the extent possible and replaced with landscaping to the satisfaction of the planning administrator. However, vehicular access to all of the existing loading docks shall be maintained.

B) Compliance with all of the administrative review comments of the site plan, except:
   a. Waiver of sidewalk improvements along Maine Street until such time as the street is improved under a public project to a full urban cross section. The owner shall agree to waive protests to any assessment for improvements of Maine Street along this frontage.
   b. Waiver of sidewalk improvements along Indiana Avenue and Ohio Street for a period of two years from the approval of this site plan.
   c. Waiver of the landscape perimeter requirements for along Main Street for the lot to the North of the building.

Administrative approval of this plan (with conditions noted above) occurred on June 23, 2017.


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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Traffic and Circulations Standards: Section 135-8.5.2A of the Planning and Design Ordinance states, “sidewalks are required as identified in the city’s transportation plan.”

2. Staff Analysis: On June 23, 2017, Site Plan 10-2017-7.79 was approved to allow redevelopment of the site for offices, warehousing, and miscellaneous creative space, subject to conditions established at the May 4, 2017 meeting of the Plan and Zoning Commission. This site plan requires provision of a public sidewalk along the Indiana Avenue and Ohio Street frontages after a two-year period from the site plan
approval (June 23, 2019). The applicant has now requested a complete waiver of this requirement.

Closing gaps within the City's sidewalk network is a priority of MoveDSM, which is the City's transportation plan. MoveDSM designates both Indiana Avenue and Ohio Street as Priority 2 Sidewalk Gaps, which is the second-highest priority for sidewalk gap infill. The City's Planning and Design Ordinance states that Staff can consider granting a Type 1 Design Alternative request to allow the waiver of sidewalk installation for Priority 2 and 3 Sidewalk Gaps.

3. **Staff Rationale:** Staff does not believe that it would be appropriate to grant the Type 2 Design Alternative. Sidewalks currently exist along both sides of Indiana Avenue on the block immediately to the west of the subject property. Those sidewalks connect to the sidewalk along 2nd Avenue. In addition, the site is located within the Central Place Industrial Park. Staff has identified Ohio Street as an ideal location for a north/south sidewalk to provide pedestrian access from University Avenue (DART transit route) through Central Place.

Furthermore, recent site improvements at 100 Indiana Avenue (immediately southwest of the subject property) have included the installation of sidewalks along the Maine Street frontage. This sidewalk connects to the existing sidewalk along Indiana Avenue.

**III. STAFF RECOMMENDATION**

Staff recommends denial of the requested Type 2 Design Alternative and Public Hearing Site Plan Amendment to waive the public sidewalk requirements along Indiana Avenue and Ohio Street.

**SUMMARY OF DISCUSSION**

Nick Tarpey presented staff report and recommendation.

Will Page asked if the sidewalk that is punctuated by a utility pole to the southwest of subject property is allowed by code? The reason for his questions was how you solve the problem with placing a 5-foot sidewalk where there’s an existing utility pole.

Jason Van Essen stated it’s hard to know the width between the pole and curb without a survey.

Will Page stated but there would be a solution.

Jason Van Essen stated yes, there could be space for a 5-foot walk which is the standard or they could consider a 4-foot walk for example.

Breanne Barnum 97 Indiana Avenue stated she is very committed to walkability as they have been active members of their neighborhood association for 2 decades and were heavily involved in bringing back the multi-use path in part of the 6th Avenue corridor
project. She showed pictures of surrounding properties that do not have sidewalks. Councilman Gray did advise her, there has been similar business such as the Food Bank of Iowa and Franklin Junior High that have received waiver from the commission which could strengthen their request for waiver. She believes the sidewalk requirement has been haphazardly applied and is ever changing, which significantly impacts the ability to provide a true connected sidewalk in the near midterm. This piecemeal approach is not the responsible way to achieve walkability, the only thing it’s accomplishing is putting undue financial burdens on small businesses that are already struggling. They would like to continue making meaningful improvements to the exterior of their building with the little capital they have left.

Chris Draper asked what is the use of the property?

Breanne Barnum stated they provide affordable spaces for small business and artist studios to contribute to the creative economy.

Johnny Alcivar asked what has changed since they agreed to the installation 2 years from the approval?

Breanne Barnum stated they’ve seen waivers for similar projects, lack of discussion around connectivity and not knowing what they were getting into being brand-new business owners.

Chris Draper asked how tenants get to the site?

Breanne Barnum stated they all drive there. They do not have anyone riding the bus, walking, or biking.

Chris Draper stated this is an area that should have more walkability, when would be the right time to put in sidewalks?

Breanne Barnum stated when they have meaningfully connectivity.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Chris Draper asked what the remedy would be to clear the sidewalk to the west.

Jason Van Essen stated he would start with an enforcement complaint to inspection staff. If there is an existing sidewalk there, the City’s sidewalk inspector could request repairs if needed.

Abby Chungath asked if a certain percentage of the total site improvement budget would be considered as it is for undergrounding utilities?
Jason Van Essen stated staff has never done that. The fix for the sidewalk was to have the escrow agreement with the ability to waive priority 2 and 3 streets.

Chris Draper asked what the cost would be for this sidewalk installation?

Jason Van Essen stated he doesn’t recall any standard dollars amounts of sidewalks and asked Glenna Frank if she was aware of any dollar amount.

Glenna Frank stated she does not recall either. The code states sidewalks are required as identified in the City’s Transportation Master Plan, allowing type 1 design alternative for priority 2 or 3 streets and written deferral agreements for priority 1 streets. Value consideration came in with the reasonably practicable standard and that language is not in this code section.

Will Page asked what the criteria is for priority 2 sidewalks?

Glenna Frank stated a type 1 design alternative is allowed waiver for priority 2 and 3 and deferral via written deferral agreement for priority 1.

Chris Draper asked if a motion for deferral is acceptable now?

Glenna Frank stated the Plan and Zoning Commission, or City Council could propose something different than what the code states.

Abby Chungath asked if the deferral would follow ownership.

Jason Van Essen stated it would be a site plan requirement which runs with the property.

COMMISSION ACTION:

Will Page made a motion for:

Denial of the requested Type 2 Design Alternative to waive the requirement to install public sidewalks.

Approval the Public Hearing Site Plan amendment subject to the following note being provided on the site plan: “waiver of sidewalk improvements along Indiana Avenue and Ohio Street for a period of three years (October 7, 2024).”

THE VOTE: 9-0-1 (Carolyn Jension abstained from the vote)

Committee and Director’s Reports:

Meeting adjourned at 8:35pm