
P&Z ABSENT: Steve Wallace, Abigail Chungath, Carolyn Jenison, Francis Boggus and Will Page

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

Emily Webb made a motion to approve the October 7, 2021, Plan and Zoning Commission meeting minutes. Motion carried 5-0-4 (Greg Wattier, Kayla Berkson, Jann Freed and Lisa Howard abstained as they were not present for the October 7 meeting).

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. Members of the public and commission requested to speak on items #2, #3, #5 and #6.

Dory Briles advised item #8 could be considered under the consent agenda as City staff is in support of the recommendation.

Jann Freed made a motion to move item #8 to the consent agenda. Motion carried 8-0-1 (Chris Draper abstained from the vote).

Jann Freed made a motion to approve consent agenda items #1, #4, #7 and #8. Motion Carried 9-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Employers Mutual Casual Company (owner), represented by Cindy McCauley (officer), for the following regarding property located at 701 Walnut 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 Downtown Mixed Use to Park/Open Space. (ZONG-2021-000031)

C) Rezone property from “DX1” Downtown Mixed-Use District to “P2” Public, Civic, and Institutional District, to allow development of a Public Recreation Area use. (ZONG-2021-000030)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow redevelopment of the vacant lot into an urban park.

2. Size of Site: Approximately 0.397 acres.

3. Existing Zoning (site): “DX1” Downtown District and public parks are not allowed within this zoning district.


5. Adjacent Land Use and Zoning:
   - North – “DX1”; Uses are office and retail.
   - South – “DX1”; Use is office.
   - East – “EX”; Uses are office and retail.
   - West – “DX1”; Use is a multiple family residential building.

6. General Neighborhood/Area Land Uses: The subject property is located on the northwest corner of the Walnut Street and 7th Street intersection.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Downtown Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 1, 2021 (20 days prior to the hearing) and October 11, 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. Additionally, a Final Agenda for the hearing will be mailed to all recognized neighborhoods on October 15, 2021.

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

   The applicant can provide a summary of the neighborhood meeting at the public hearing.

8. Relevant Zoning History: None.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

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

   The proposed “P2” zoning requires the “Parks and Open Space” designation on the Future Land Use Map for the rezoning to be found in conformance with PlanDSM.

   The 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.

   The Zoning Ordinance states that “P2” 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. Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

   The applicant has proposed “P2” Public, Civil, and Institutional District in order to build an urban park.

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 any proposed additions or modifications.

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

III. STAFF RECOMMENDATION

Part A) Staff recommends that the requested rezoning be found not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Downtown Mixed Use to Park/Open Space.

Part C) Staff recommends approval of the proposed rezoning of the subject property from “DX1” Downtown District to “P2” Public, Civil, 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:

Jann Freed Made a motion of:

Part A) The requested rezoning be found not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Downtown Mixed Use to Park/Open Space.

Part C) Approval of the proposed rezoning of the subject property from “DX1” Downtown District to “P2” Public, Civil, and Institutional District.

THE VOTE: 9-0

Item 4

Request from Hy-Vee Food Stores, Inc. (owner), represented by Rachel Harris (officer), for review and approval of a Public Hearing Site Plan “Hy-Vee Aisles Online” for property at 2540 East Euclid Avenue, and for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow for a drive-through facility within the street-facing side yard, per City Code Section 135-2.22.3.D. (10-2021-7.151)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing a 645-square foot addition that would include a drive-through facility on the east (street-facing) façade of the existing building. The drive-through facility would be for Hy-Vee Aisles Online grocery pickup. The Planning and Design Ordinance requires drive-through facilities to be located on the rear façade of a building on properties zoned “CX” District. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 306,357 square feet or 7.03 acres.


4. Existing Land Use (site): The site contains a one-story commercial center building with 72,770 square feet of gross floor area with surface parking lot. The site also includes a one-story building with 8,220 square feet of gross floor area located in the northeastern portion of the property.

5. Adjacent Land Use and Zoning:
   - North – “N3a”; Uses are one-household, residential in nature.
   - South – “MX3”; Uses are commercial in nature.
   - East – “P2”; Uses are religious and public use in nature.
   - West – “MX3”, Uses are commercial in nature.

6. General Neighborhood/Area Land Uses: The subject property is located on the East Euclid Avenue corridor, which contains a mix of commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Douglas Acres Neighborhood and within 250 feet of the Fairmont Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021 and by mailing of the Final Agenda on October 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 11, 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 Douglas Acres Neighborhood mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317. The Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Ave, Des Moines, IA 50317.
8. **Relevant Zoning History:** On October 4, 2021, by Ordinance 16,050, the property was rezoned to “CX” Mixed Use District.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Community Node.

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

    - The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, create 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. Drive-Through Facility: Section 135-2.22.3(D)(1) of the Planning and Design Ordinance requires drive-through facilities to be located on the rear facade of the building. The proposed Site Plan allows construction of a 645-square foot drive-through facility and canopy on the eastern, street-facing side of the building. Relocating the drive-through to the northern or western façades would not be feasible.

The location of the proposed drive-through canopy is within the existing parking lot and would not substantially increase traffic within the parking lot. Landscaping is proposed to be placed around the drive-through facility to provide a general screening of the proposed kiosk and drive-through lanes. The requested design alternative would not have a substantial or undue adverse effect upon the adjacent properties, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

III. STAFF RECOMMENDATION

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

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

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

THE VOTE: 9-0

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Item 7

Request from Kemin Industries (owner), represented by Brent Strauch (consultant), for review and approval of a Public Hearing Site Plan for property located at 1900 Scott Avenue, for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow construction of an 11,310-square foot building addition with 2.92% transparency on the street-facing facade, which is less than the required 12% transparency along the street-facing façade in accordance with the Workshop/Warehouse building type specified in City Code Section 135-2.9-D.17. (10-2021-7.139)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing an 11,310-square foot building addition on the east side of an existing industrial processing facility. The building addition has a proposed street-facing façade transparency of 2.92%. The Planning and Design Ordinance requires that Workshop/Warehouse building types in I2 zoning districts have a minimum transparency of 12% along street-facing facades. 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: 24.604 acres.

3. Existing Zoning (site): “I2” Industrial District.

4. Existing Land Use (site): The site contains multiple industrial and office buildings, parking facilities, and accessory structures in a campus-like setting that support the operations of Kemin Industries.

5. Adjacent Land Use and Zoning:

   North – “I1” and “I2”; Uses are a vehicle fleet storage facility, warehousing, an industrial processing facility, and an undeveloped parcel.

   South – “I2”; Uses are industrial processing facilities.

   East – “I1”; Uses are railroad tracks and undeveloped parcels.

   West – “I2”; Uses are warehousing, materials storage, and offices.

6. General Neighborhood/Area Land Uses: The subject property is bounded by East Martin Luther King, Jr. Parkway to the north, railroad tracks to the east, Scott Avenue to the south, and Southeast 18th Street to the west. The surrounding neighborhood is composed almost exclusively of industrial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021 and by mailing of the Final Agenda on October 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 11, 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.

8. **Relevant Zoning History:** There are four recent Board of Adjustment actions that are relevant to the approval of this site plan.

On August 27, 2014, the Board of Adjustment, by Docket ZON2014-00146, granted a conditional use for the construction of a 12,500-square foot facility for a chemical freeze-spraying process that included installation of eight (8) accessory 10,000-gallon above ground storage tanks for palm oil and two (2) accessory 15,000-gallon above ground storage tanks for liquid Nitrogen.

On September 27, 2017, the Board of Adjustment, by Docket ZON2017-00047, granted a conditional use to allow expansion of the existing use of the property for the manufacturing of food additives, to also include a delivery site for production process chemicals within the eastern portion of the property. The area consists of bulk storage within a 22-foot tall by 28-foot diameter above-ground storage tank for combustible chemicals, rail spurs holding a maximum of four tail tankers, related unloading equipment and pumps, and a pipe rack delivery system.

On January 27, 2021, the Board of Adjustment, by Docket ZON2020-00167, granted a conditional use to allow expansion of the existing “Industrial: Fabrication and Production, Intensive” use to include operations within a new building that would generally measure 100 feet by 135 feet.

On June 23, 2021, the Board of Adjustment, by Docket ZON2021-00075, granted a conditional use to allow expansion of the existing “Industrial: Fabrication and Production, Intensive” use to include operations within a new approximate 11,000-square foot building addition.

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

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

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

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

  - An evaluation of the character of the surrounding neighborhood, such as:
    - 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. Building Type Requirements: Section 135-2.9.3(D)(17) of the Planning and Design Ordinance requires a minimum 12% transparency be provided on street-facing building facades for Workshop/Warehouse buildings situated in I2 zoning districts. The building addition is proposed to have a street-facing transparency of 2.92%. Upon completion of construction, the combined transparency of the building addition and the existing building is proposed to be 2.32%.

The proposed building expansion will primarily be used as an intensive fabrication and production space. The applicant notes that increasing the transparency of the building would be detrimental to these operations. Aesthetically, the proposed expansion is compatible with the existing building and the other industrial buildings within the Kemin campus. Staff feels that the design of the building addition includes durable, high-quality materials with a design that is simple, well-organized, and contextually appropriate. Furthermore, the proposed building addition’s street-facing façade borders an elevated portion of East Martin Luther King, Jr. Parkway, creating an unusual situation where much of the building is below street level. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area, or the public health, safety, and general welfare. Staff supports this Type 2 Design Alternative request.

III. STAFF RECOMMENDATION

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

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed 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: 9-0

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Item 8

City initiated requests for the following:  

(10-2021-5.03)

A) Determination as to whether the proposed 4th Restated Urban Revitalization Plan for the Citywide Urban Revitalization Area, to update, amend, and extend the duration of the existing Urban Revitalization Plan, is in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan.

B) Determination as to whether the proposed amendment to Des Moines Municipal Code Section 135-2.11, to revise the Flat Building Type into Flat A and Flat B Building Types, is in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

A. The proposed 4th Restated Urban Revitalization Plan for the Citywide Urban Revitalization Area is attached.

The following is a summary of key components of the proposed restated plan:

- Required minimum valuation increase of 5% for all abatement schedules. The 3rd Restated Urban Revitalization Plan (City’s current plan) requires a minimum 5% valuation increase for single-household and a minimum 15% valuation increase for 3+ household and commercial/industrial.

- Reliance on Municipal Code Chapter 135 construction material requirements for eligibility. The 3rd Restated Urban Revitalization Plan has an appendix chapter that specifies construction requirements with no relief mechanisms.

- 10-year, 100% abatement for all residential rehab City-wide. The 3rd Restated Urban Revitalization Plan has residential rehab broken into two separate schedules, including a 10-year 115% abatement schedule for projects resulting in a maximum increased value of $20,000, and a 10-year 100% abatement schedule for higher value projects. The proposed 4th Restated Urban Revitalization Plan provides 10-year 100% abatement schedule for all qualified residential rehabilitation.

- 10-year 100% abatement for new detached accessory housing units (such as carriage houses) City-wide. This is a higher-level incentive from what is available in the 3rd Restated Urban Revitalization Plan.

- 3-year 100% and 10-year declining abatement continues to be available for commercial/industrial projects in commercial/industrial districts. This is consistent with the 3rd Restated Urban Revitalization Plan.
• Sustainability requirements for commercial/industrial projects have been updated for better alignment with Municipal Code Chapter 135.

• Sustainability requirements for 13+ household residential projects have been updated for better alignment with Municipal Code Chapter 135. Projects with permit applications accepted before December 31, 2022, construction started by July 1, 2023, and construction completed by December 31, 2023 continue to be eligible for the abatement schedules in the 3rd Restated Urban Revitalization Plan under its sustainability requirements.

• New abatement schedules for Missing Middle housing, which includes house building types with 2-4 units, bi-attached houses (duplexes), Row buildings with 2-12 units, and Flat B buildings (small apartment structures) with 2-12 units:
  - 8-year declining abatement offered City-wide for meeting minimum plan requirements.
  - 9-year declining abatement offered City-wide for including enhanced efficiency and sustainability features.
  - Projects started in 2022 will be eligible for these schedules if the 4th Restated Urban Renewal Plan is approved this year.

• Over the next 2-years, new 1-household residential projects transition from 6-year declining abatement to 5-year declining abatement outside the targeted area and from 10-year declining abatement to 9-year declining abatement within the targeted low-density residential area.
  - New 1-household residential construction with permit applications accepted before December 31, 2022, construction started by July 1, 2023, and construction completed by December 31, 2023 continue to be eligible for the abatement schedules in the 3rd Restated Urban Revitalization Plan under its eligibility criteria.
  - After the dates listed above, new 1-household residential construction will be eligible for the following schedules under the 4th Restated Urban Revitalization Plan:
    i. Projects constructed to minimum plan requirements will be eligible for 5-year declining abatement outside the targeted low density residential area and 9-year declining abatement within the targeted low density residential area.
    ii. Projects constructed with enhanced efficiency and sustainability features will be eligible for 6-year declining abatement outside the targeted low density residential area.
and 10-year declining abatement within the targeted low density residential area.

- To qualify for abatement schedules that require enhanced efficiency and sustainability features, projects must have the following:
  - Minimum R-20 exterior walls; and
  - Level 2 electric vehicle charging station OR infrastructure (electric box and conduit) for future installation of level 2 electric vehicle charging station.

B. Proposed Amendments to the Planning and Design Code (Chapter 135) are necessary to create a Flat A Building Type (containing 13+ units) and Flat B Building Type (containing 2 to 12 units). This amendment allows the City to offer the “Missing Middle” tax abatement schedule for Flat B Building Types and the “High Density Residential” tax abatement schedule for Flat A Building Types.

The following is a summary of changes to Chapter 135:

- Table 135-2.1-1 “Building Types By Districts”. Existing text “Flat Building” changed to “Flat A and Flat B Buildings” in the tenth row of the Building Types column.

- Table 135-2.1-2 “Building Types By Districts. Existing text “Flat Building” changed to “Flat A and Flat B Buildings” in the tenth row of the Building Types column.

- Titles, headings for all of Section 135-2.11 updated to incorporate Flat A and Flat B buildings.

- Text of Section 2.11.1 amended to identify distinguishing characteristics of Flat A and Flat B buildings.

- Text of Section 2.11.2 amended to reference revised images of Flat A buildings in Figure 135-2.11-A and revised images of Flat B buildings in Figure 135-2.11-B.

- Section 135-2.11.3.A.8 amended as follows:
  - Minimum building width (ft) in RX1 district changed from 40 to 30 feet.
  - Minimum building width (ft) in RX2, DXR and NX3 districts changed from 60 to 30 feet.
  - Maximum building width (ft) in RX1 district changed from 90 to 120 feet.
• Section 135-2.11.3.A.9 amended as follows:
  ➢ Minimum lot width for single-unit wide Flat A and Flat B Buildings in NX2 and NX2a districts changed from 35 feet to 45 feet.
  ➢ Minimum lot width for single-unit wide Flat A and Flat B Buildings in RX1 district changed from 30 feet to 45 feet.
  ➢ Minimum lot width for single-unit wide Flat A and Flat B Buildings in RX2, DXR and NX3 districts changed from 40 feet to 45 feet.
  ➢ Minimum lot width for 2-unit wide Flat A and Flat B Buildings in RX2, DXR and NX3 districts changed from 80 feet to 60 feet.
  ➢ Minimum lot area for Flat A and Flat B Buildings in RX2, DXR and NX3 districts changed from 9,600 square feet to 7200 square feet.

• Section 135-2.11.3.C.16 amended to note that Flat A Buildings contain a minimum of 13 household units and Flat B Buildings contain a minimum of 2 units and maximum of 12 household units.

• Existing label “Figure 135-2.11-B Flat Building: Building Siting” amended to “Figure 135-2.11-C Flat Building: Building Siting”.

• Existing “Figure 135-2.11-C Flat Building: Height and Uses Requirements” renamed to “Figure 135-2.11-D Flat Building: Height and Uses Requirements”.

• Existing “Figure 135-2.11-D Flat Building: Façade Requirements” renamed to “Figure 135-2.11-E Flat Building Façade Requirements.

• Figure references in Sections 135-2.11.3.A; 135-2.11.3.B; 135-2.11.3.C and 135-2.11.3.D revised to match applicable figure name changes noted above.

II. CONSISTENCY WITH STATE CODE

The proposed amendments to the Chapter 135 (Planning and Design) have been prepared in consideration of Iowa Code Chapter 18B.

III. CONSISTENCY WITH PLANDSM

The proposed 4th Restated Urban Revitalization Plan for the Citywide Urban Revitalization Area and amendments to Chapter 135 to create Flat A and Flat B building types are supported by goals and policies of PlanDSM, as noted in Appendix D of the proposed 4th Restated Urban Revitalization Plan.
II. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed Fourth Restated Urban Revitalization Plan for the Citywide Urban Revitalization Area to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends that the Commission find the proposed amendments to Des Moines Municipal Code Chapter 135 to create Flat A and Flat B building types to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

SUMMARY OF DISCUSSION

Dory Briles advised item #8 could be considered under the consent agenda as City staff is in support of the recommendation.

COMMISSION ACTION:

Jann Freed made a motion of:

Part A) The Commission find the proposed Fourth Restated Urban Revitalization Plan for the Citywide Urban Revitalization Area to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) The Commission find the proposed amendments to Des Moines Municipal Code Chapter 135 to create Flat A and Flat B building types to be in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

THE VOTE: 9-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Jerry’s Homes (owner), represented by Mike Nigro (officer), for review and approval of a Public Hearing Site Plan for property located at 160 Crossroads Drive, and for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow paving in the front yard area that is in excess of the maximum allowed 25% of the total front yard area, as allowed for a House Type A, per City Code Section 135-2.13.3(E)(1). (BLD2020-00730)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant has poured additional driveway and walkway paving that exceeds the maximum allowed impervious area within a front yard.

2. **Size of Site:** 60 feet by 135 feet (8,100 square feet).

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

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

5. **Adjacent Land Use and Zoning:**
   - **North** – “P1”; Public Open Space.
   - **South** – “N2b”; Uses are one-household dwellings.
   - **East** – “N2b”; Uses are one-household dwellings.
   - **West** – “N2b”; Uses are one-household dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is not located in a recognized neighborhood. Notification of the hearing for this specific item was mailed on October 1st, 2021 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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

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

10. **Applicable Regulations:** Section 135-2.13.3.E.1 states that the maximum impervious area in any front yard is 25% total.

   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. Front Yard Coverage: The applicant has expanded their existing driveway and walkway in the front yard. This additional paving has brought the total impervious area in the front yard to 750 square feet or 40% of the front yard area. This is 61% more than the maximum 465 square feet (25%) for a House Type A per Section 135-2.13.3(E)(1).

Staff believes that the additional paving is within the overall character of the neighborhood. Overall, the applicant’s proposal would not have an adverse impact on the adjacent properties, the character of the surrounding area or the public health, safety and general welfare. It would meet the general intent of the code. Staff is supportive of the requested waiver for additional front yard impervious area.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.
Applicant was not present.

CHAIRPERSON OPENED THE PUBLIC HEARING

Carol Maher 701 Polk Boulevard stated Jerry’s Homes knows they are outside of what is allowed by code. Jerry’s Homes needs to seek approval first and not promise their buyer more concrete than what’s allowed.

Dory Briles asked if this would become a 3-car garage in the future?

Jason Van Essen stated with that area only being 7-feet wide, an overhead door would be challenging. There are other houses within the development that have 3-car garages, this would be 1 of the 2 houses having a 2.5-car garage with an additional stall.

Chris Draper asked if an overhead door was constructed, would the additional concrete be allowed?

Jason Van Essen stated the code allows as much concrete as you need to serve the garage doors. If this was a little bit wider with an overhead door, this item wouldn’t be on the agenda tonight. Staff feels this fits the character of the area as most houses in the development have 3-car garages.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested Type 2 Design Alternative.

THE VOTE: 9-0

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Item 3

Request from Jerry’s Homes (owner), represented by Mike Nigro (officer), for review and approval of a Public Hearing Site Plan for property located at 166 Crossroads Drive, and for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow paving in the front yard area that is in excess of the maximum allowed 25% of the total front yard area, as allowed for a House Type A, per City Code Section 135-2.13.3(E)(1).

(BLDR-2021-000399)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant is proposing to pour additional driveway and walkway paving that would exceed the maximum impervious area allowed in a front yard.

2. **Size of Site:** Approximately 60 feet by 135 feet (7,744 square feet).

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

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

5. **Adjacent Land Use and Zoning:**
   - **North** – “P1”; Public Open Space.
   - **South** – “N2b”; Uses are one-household dwellings.
   - **East** – “N2b”; Uses are one-household dwellings.
   - **West** – “N2b”; Uses are one-household dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is not located in a recognized neighborhood. Notification of the hearing for this specific item was mailed on October 1st, 2021 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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

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

10. **Applicable Regulations:** Section 135-2.13.3.E.1 states that the maximum impervious area in any front yard is 25% total.

    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. Front Yard Coverage: The applicant is proposing to install a driveway and walkway in the front yard that would exceed the maximum impervious area allowed by code. This additional paving would bring the total impervious area in the front yard to 916 square feet or 45% of the front yard area. This is 81% more than the maximum 506 square feet (25%) for a House Type A per Section 135-2.13.3(E)(1).

Staff believes that the additional paving is within the overall character of the neighborhood. Overall, the applicant’s proposal would not have an adverse impact on the adjacent properties, the character of the surrounding area or the public health, safety and general welfare. It would meet the general intent of the code. Staff is supportive of the requested waiver for additional front yard impervious area.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.
Johnny Alcivar asked if there was a way city staff could track the issue of contractors doing the work before asking for relief?

Bert Drost stated they could track it, but staff wouldn’t be able to use that information when reviewing appeals as it is not a part of the criteria set by code.

Jason Van Essen stated the applicant was aware they would need to come back for relief on the other case but failed to do so before the driveway was poured.

Todd Garner asked if a 3-car garage was installed, would they meet setback requirements for a 60-foot-wide lot?

Jason Van Essen stated not with this floor plan.

Chris Draper asked what is the width needed for a garage door to be constructed?

Bert Drost stated they would need a minimum of 8-feet for a garage door intended for a car.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested Type 2 Design Alternative.

THE VOTE: 9-0

Item 5

Request from Eychaner Properties, Inc (owner), represented by Rich Eychaner (officer), for review and approval of a Public Hearing Site Plan “3700 Merle Hay Road Parking Lot Improvements” for property at 3700 Merle Hay Road, and for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to waive the requirement to underground existing overhead utility lines, per City Code Section 135-9.2.1(E).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant is requesting to waive the required undergrounding of the utility service overhead lines along the northern property line and at the southeast corner of the property. 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:** 65,889 square feet (1.51 acres).

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

4. **Existing Land Use (site):** The property contains a 15,238 square foot commercial building with four units that are a combination of retail and restaurant uses. There is also a surface parking lot.

5. **Adjacent Land Use and Zoning:**
   - **North** – “CX”; Use is a large shopping center.
   - **South** – “N3b” and “MX3; Uses are residential and a drive-thru restaurant.
   - **East** – “MX3”; Use is commercial.
   - **West** – “N3b-2” and “MX3”; Uses are residential and a commercial center.

6. **General Neighborhood/Area Land Uses:** The subject property is located along Merle Hay Road at the intersection of Douglas Avenue, in a commercial corridor area that includes a mix of commercial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Merle Hay Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021, and by mailing of the Final Agenda on October 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 7, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the 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 Merle Hay Neighborhood mailings were sent to Chris Morse, 3517 52nd Street, Des Moines, IA 50310.

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

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

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

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

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

  ➢ Zoning restrictions at the time of the proposal;

  ➢ The city's comprehensive plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Overhead Utility and Service Line Standards: Section 135-9.2.1.E of the Planning and Design Ordinance requires that all electrical, telephone, and cable television transmission systems shall be placed underground whenever reasonably practicable. There are currently larger overhead lines that run along the northern property edge in the right-of-way, and on the southeastern corner of the property there is a small line serves a light pole in the right-of-way.

Staff does not believe it would be reasonably practicable to require any of the overhead lines to be undergrounded. The applicant’s cost estimate of $216,000 for undergrounding work, with $200,000 estimated for the lines on the northern edge and $16,000 estimated for the line and pole on the southeastern corner. The bids for fencing, landscaping, and site work comprise about $78,825 of work. The utility undergrounding figure of $216,000 would make up 73% of total project costs if added to the other work. If the northern edge utility lines were waived but the southeastern corner line was not, the undergrounding cost of $16,000 would make up 17% of total project costs.

Staff does not believe it is reasonably practicable to underground the larger transmission lines that run along the northern perimeter of the site, or the service lines that run power to the light pole on the southeastern edge of the property.

III. STAFF RECOMMENDATION

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

Staff recommends the approval of the requested Type 2 Design Alternative to waive the required undergrounding of the of the utility service lines on the northern property line and at the southeastern corner of the site.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Dan Southwick representing Bishop Engineering stated the cost of undergrounding utilities isn’t effective with the building permit being $78,000.

CHAIRPERSON OPENED THE PUBLIC HEARING

Carol Maher 701 Polk Boulevard stated she wasn’t sure if full compliance included removing the large “for lease” sign in the parkway area. She would also like to know where the future fence will be placed and would like to see the backside of the building cleaned up as it’s currently unsightly.

Dan Southwick stated they would work with City staff to make sure the landscaping on the backside of the building is adequate. There will be landscaping included along the
frontage that will be congruent with the Merle Hay Mall project. He would need to get an answer from the owner about removal of the “for lease” sign and would relay that information onto City staff.

Jason Van Essen stated the sign isn’t permanent and this site plan would not grant it any rights.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jann Freed made a motion for approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments and approval of the requested Type 2 Design Alternative to waive the required undergrounding of the utility service lines on the northern property line and at the southeastern corner of the site.

Chris Draper offered Jann Freed a friendly amendment to defer the undergrounding of utility lines for 1 year since the code requirement is going to be reevaluated.

Johnny Alcivar asked Chris Draper if he would accept a 2- or 3-year deferral to ensure that there is adequate time for any code amendments to be implemented.

Chris Draper accepted the deferral of 3 years as part of his friendly amendment.

**COMMISSION ACTION:**

Jann Freed made a motion for approval of the proposed Public Hearing Site Plan subject to compliance with all administrative review comments and approval of the requested Type 2 Design Alternative to defer the required undergrounding of the utility service lines on the northern property line and at the southeastern corner of the site for 3 years.

**THE VOTE:** 5-4 (Greg Wattier, Jann Freed, Lisa Howard, and Kayla Berkson voted in opposition).

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**Item 6**

Request from Krause Plus (owner), represented by Aubrie Gould (officer), for the following:

A) Review and approval of a Public Hearing Preliminary Plat “Western Gateway Phase 1 Preliminary Plat” for property in the vicinity of 555 17th Street, to allow for consolidation of multiple lots. (13-2021-1.60)

B) Review and approval of a Public Hearing Site Plan “Big Grove Brewery” for property in the vicinity of 555 17th Street, and for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), to allow
use and expansion of an existing parking lot within a yard fronting a primary street (High Street), per City Code Section 135-2.5.3.A.8. (10-2021-7.141)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed plat and site plan are necessary in order to facilitate renovation of the former Crescent Chevrolet building for improvements to include a new brewery and future commercial space. Additionally, the applicant is proposing to remove and consolidate lots, to tie the site and building into one full lot encompassing the entirety of the scope of work.

2. Size of Site: 77,232 square feet (1.773 acres).

3. Existing Zoning (site): MX2 Mixed Use District.


5. Adjacent Land Use and Zoning:

   North – “RX1”; Use is multiple-household units and commercial uses.

   South – “DX2”; Uses are residential townhomes and commercial uses.

   East – “RX1 & MX2”; Uses are commercial retail/office uses.

   West – “RX1”; Uses are commercial retail/office uses.

6. General Neighborhood/Area Land Uses: The subject property is in the southern portion of the Sherman Hill Neighborhood. The surrounding area consists of a mix of multi-family household and townhome units, and various commercial uses including retail, office, and eating and drinking establishments.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Sherman Hill Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on October 1, 2021 and the Final Agenda on October 15, 2021. Additionally, separate notifications of the hearing for this specific item was mailed on October 11, 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. The Sherman Hill Neighborhood Association mailings were sent to David Schlarmann, 1503 Center Street, Des Moines, IA 50314.

8. Relevant Zoning History: Some portions of the lot proposed for consolidation underwent a rezone from RX1 and DX2 to MX2. That rezoning was approved by the City Council on August 23, 2021 by Roll Call Numbers #21-1371, #21-1372, and #21-1373 as ordinance #16041.
9. **PlanDSM Future Land Use Plan Designation:** Downtown Mixed Use.

10. **Applicable Regulations:**

    A. Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission shall determine if such Preliminary Plat conforms to the standards and requirements outlined in Chapter 354 of the Iowa Code, and the City Subdivision Ordinance and shall approve, conditionally approve or reject such Plat within 45 days after the date of submission to the City Permit and Development Center. Unless the applicant agrees in writing to an extension of time, the Preliminary Plat shall be deemed approved if the Commission does not act within such 45-day period. The Commission's action for approval or conditional approval shall be null and void unless the Final Plat is submitted to the City Permit and Development Center within 270 days after the date of such action; provided, however, that the Permit and Development Administrator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the Final Plat to the City Permit and Development Center.

    B. 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. Plat: The subject property is designated as “Downtown Mixed Use” on the Future Land Use Map. PlanDSM describes this designation as “mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown….” The site will become the Des Moines location for Big Grove Brewery and restaurant at the east side of the building, while the remainder of the building will be remodeled to allow future commercial uses. The submitted preliminary plat seeks to combine multiple lots that encompass the greater scope of work of the site into a single parcel. This parcel meets all of the requirements of the City of Des Moines Subdivision Ordinance, accounts for all easements on the site, and is in conformance with the PlanDSM future land use designation of Downtown Mixed Use.

2. Parking: Per Section 135-2.5.3.A.8, surface parking within a primary street facing yard is not allowed and requires a Type 2 Design Alternative. The site features an existing surface parking lot that fronts High Street, which is considered a primary street within the City of Des Moines Primary Streets Map. The Site Plan proposes removal of an existing building on the northwest corner of the site and construction of an expanded parking area within its place. The proposed expanded parking lot would feature a full fence frontage buffer and meet the requirements and allowances of interior lot landscaping per City Code Section 135-7.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the proposed preliminary plat, subject to compliance with all administrative review comments.
Part B) Staff recommends approval of the proposed Public Hearing Site Plan and requested Type 2 Design Alternative, subject to compliance with all administrative review comments.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Nate Easter Krause Plus, 1459 Grand Avenue stated he is here to answer any questions the commission might have.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Kathie Lyman 1520 High Street stated she is concerned that this plan would take away their access to the shared easement they have where their utilities and dumpsters are located. She is also concerned with potential density increase as High Street and 15th Street will be the only access points.

Chris Draper asked if the east end of the alley is still open?

Kathie Lyman stated yes and that she is concerned about maintaining that access.

Jason Van Essen stated they likely have easement rights as this alley was vacated and conveyed some time ago.

Bert Drost stated the applicant's intent is to keep that access open.

Nate Easter stated they will be leaving the 16th Street access open, one of the requirements is to provide an easement for access to the former alley.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Emily Webb made a motion of:

Part A) Approval of the proposed preliminary plat, subject to the following conditions:

1. Compliance with all administrative review comments.

2. Provision of all necessary easements needed for access to the former alley in the 1500 block of High Street through the vacated 16th Street right-of-way from High Street.

Part B) Approval of the proposed Public Hearing Site Plan and requested Type 2 Design Alternative, subject to compliance with all administrative review comments.

**THE VOTE:** 8-0-1 (Greg Wattier abstained from the vote).
Item 9

Request from Wesley Life (owner), represented by Craig Flanagan (officer), for the following regarding property located at 3206 University Avenue, 1117 33rd Street, and 1119 33rd 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 Low Density Residential and Low-Medium Density Residential to Community Mixed Use. (ZONG-2021-000024)

C) Rezone property from “P2” Public, Civic, and Institutional District and “N5” Neighborhood District to “MX3” Mixed Use District, to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street. (ZONG-2021-000023)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and allow expansion of the existing parking lot onto adjoining parcels.

2. Size of Site: Approximately 1.73 acres.

3. Existing Zoning (site): “P2” Public, Civic, and Institutional District and “N5” Neighborhood District’.


5. Adjacent Land Use and Zoning:
   - North – “DX1”; Use is a place of worship.
   - South – “N5”; Use is one family residential.
   - East – “RX1”; Use is an office.
   - West – “DX1”; Use is government administration.

6. General Neighborhood/Area Land Uses: The subject property is located midblock on the southside of University Avenue between 30th Street and 35th Street.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Drake Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 1, 2021 (20 days prior to the hearing) and October 11, 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. Additionally, a Final Agenda for the hearing will be mailed to all recognized neighborhoods on October 15, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue Des Moines, IA 50311.

The applicant can provide a summary of the neighborhood meeting at the public hearing.

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

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated as “Low Density Residential” and “Low-Medium Density Residential” on the Future Land Use Map. PlanDSM describes these designations 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.

   **LOW-MEDIUM DENSITY RESIDENTIAL**
   
   Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

   The proposed “MX3” District zoning requires the “Community Mixed Use” designation on the Future Land Use Map for the rezoning to be found in
conformance with PlanDSM.

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.*

The Zoning Ordinance states that “MX3” 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. Building types allowed in this district include the Storefront, Commercial Cottage, General Building, Commercial Center, Civic Building, and Principal-Use Parking Structure.

The applicant is proposing “MX3” Mixed Use District in order to allow use of the existing building at 3206 University Avenue for a mix of uses, including Restaurant and Limited Fabrication and Production Use, and to allow expansion of the existing parking lot onto the parcels at 1117 33rd Street and 1119 33rd Street.

Staff believes that the proposed rezoning is appropriate given the location of the subject property on a high volume transportation corridor and the site being located within 400 feet of a Neighborhood Node and quarter of a mile of a Community Node, and also being within 125 feet of a MX3 zoned property.

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 any proposed additions or modifications.

The proposed parking on the adjoining parcels would have a separation of 30 feet from the N5 zoned property to the south and a separation of 21 feet from the 33rd Street side property line, consistent with the front of the home on that property. Additionally, the applicant has proposed to close the current street access to the 33rd Street which staff supports. A fully landscaped bufferyard and frontage buffer with fence required as part of Chapter 135: Planning and Design Ordinance. Staff further recommends installation of sidewalk along the adjoining parcels fronting 33rd Street with completion of pedestrian access to the site.

The location of the proposed restaurant addition on the University Street side of the building and the drive-through lane on the rear of the building are consistent with Storefront building typology.
3. Grading & Storm Water Management: Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the requested rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Staff recommends approval of the proposed rezoning of the subject property from “P2” Public, Civic, and Institutional District and “N5” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. No driveway, ingress – egress, access to 33rd Street shall be allowed.

2. Sidewalk along the adjoining parcels, 1117 33rd Street and 1119 33rd Street, with a pedestrian access to the site shall be provided.

3. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be setback an equal distance as the residential home from the street side property line.

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Emily Webb asked if the applicant is opposed to anything within the staff recommendation.

Bert Drost stated they do not agree with the proposed zoning condition that would require sidewalk along their 33rd Street frontage. This condition would eliminate the ability to ask for waiver of the sidewalk during the site plan process.

Johnny Alcivar asked if any input was given from engineering as there seems to be a lot of impervious space being added?

Bert Drost stated he did not have a conversation with engineering, but the applicant may have more information in regard to that.

Johnny Alcivar stated the commission might see this item again if they do not comply with the site plan requirements.
Bert Drost stated that is correct, they may need type 2 design alternatives.

Chris Draper asked if parking requirements are being met?

Bert Drost stated he hasn’t done a full analysis but believes they would meet the minimum for the proposed uses.

Chris Draper asked what the minimum would be for this zoning district?

Bert Drost stated for fabrication and production use, it would require 1 parking space for every 2 staff members, office space requires 1 space per 400 square feet of floor area, and restaurant or café use would require 1 space per 150 square feet of floor area.

Shannon Draayer representing Wesley Life stated they are a 75-year-old nonprofit serving older adults and have been operating the Meals on Wheels program since 2006. They are looking for a larger space as the current space cannot support the growing need. This building is going to allow them to triple their capacity. They have held 4 community meetings in the neighborhood, attended the Drake Neighborhood Association meeting and have met individually with 33rd Street neighbors.

Dan Drendel representing Slingshot Architecture stated they will be shutting down access to 33rd street as neighbors had concern with people using the lot as a cut through. They would ask for the sidewalk zoning condition to be removed. The parking requirements are currently aligned with the mix uses while being mindful of not over parking.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Stephanie Brennan 3127 Cottage Grove Avenue stated Wesley life has been very communicative and transparent with their plans from the beginning. She believes the project is very important for the neighborhood and is excited for what they are bringing to the area.

Jim Cain 1118 33rd Street read submitted letter verbatim and presented submitted photos.

Laura Amsler 1118 33rd Street stated she would like to support Wesley Life in not constructing the sidewalk on 33rd Street as it would add more concrete in green space they are trying to preserve.

Carol Maher 701 Polk Boulevard stated she has concerns with the drive through lane that is referenced in the staff report as this would encourage more car traffic in an area where a lot of people bike and walk.

Shannon Draayer stated there will be bike parking along University Avenue.
Dan Drendel stated the drive through lane would be a part of the Meals on Wheels program to provide a covered loading zone for food.

Shannon Draayer stated the proposed parking is dictated by the proposed uses, not just the Meals on Wheels but also the café and event space on the 2nd floor.

Chris Draper asked if they were allowed less parking, would they want less parking?

Shannon Draayer stated this number is adequate for what they need and aligns with what the city is requiring.

Chris Draper asked if they have a sidewalk in place on the southwest side for accessibility?

Shannon Draayer stated yes, that will allow neighbors access to the café and other services along University Avenue.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Chris Draper stated this is a great step in providing good and cost-effective food for those in need of these services.

**COMMISSION ACTION:**

Johnny Alcivar made a motion of:

Part A) The requested rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Approval of the proposed rezoning of the subject property from “P2” Public, Civic, and Institutional District and “N5” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. No driveway, ingress – egress, access to 33rd Street shall be allowed.

2. The parking lot expansion shall be set back 30 feet from the adjoining parcel to the south and shall be setback an equal distance as the residential home from the street side property line.

**THE VOTE: 8-0-1 (Greg Wattier abstained from the vote).**
Committee and Director’s Reports:

Approval of 2022 Schedule of Meeting Dates

Jann Freed made a motion to approve the 2022 Plan and Zoning Commission Meeting Dates. Motion carried 9-0

Meeting adjourned at 7:54pm