The August 20, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 978 7751 7183.

P&Z PARTICIPANTS: Rocky Sposato, Kayla Berkson, Johnny Alcivar, Emily Webb, Abigail Chungath, Greg Wattier, Lisa Howard, Jann Freed, Dory Briles, Carolyn Jenison, Francis Boggus and Steve Wallace

P&Z ABSENT: Greg Jones and Will Page

STAFF PARTICIPANTS: Mike Ludwig, Glory Parks, Bert Drost, Jason Van Essen, Katherine Dostart, Erik Lundy, Judy Parks-Kruse, and Dolores Briseno.

Dory Briles made a motion to approve the August 6, 2020 Plan and Zoning Commission meeting minutes. Motion carried 11-0-1 (Lisa Howard abstained as she was not present for the August 6 meeting).

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2, #3, #4, #5 or #6. A member of the public requested to speak on item #1.

Emily Webb made a motion to approve Consent Agenda Items #2, #3, #4, #5 and #6. Motion carried 11-0-1 for item #2 (Kayla Berkson abstained from the vote). Motion carried 12-0 for items #3, #4, #5 and #6.

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Hotel Francis, LLC (owner), represented by Michael Nelson (officer), for vacation of a 4-foot by 4-foot segment of the south edge of University Avenue adjoining property at 2650 University Avenue, to allow for a door swing and landing for emergency egress only from a restaurant tenant space within the hotel building.

(11-2020-1.08)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would allow use of the addressed property as a restaurant space within mixed use building.

2. Size of Site: 16 square feet) for the addressed property.

3. Existing Zoning (site): “MX2” Mixed Use District. The “MX2” District is “intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.”
4. Existing Land Use (site): The affected area consists of sidewalk within the public Right-Of-Way (ROW) of University Avenue between 26th Street and 27th Street.

5. Adjacent Land Use and Zoning:

   **North** – “P2”; Use is Drake University’s campus.

   **South** – “N5”, Use is a recently constructed hotel development.

   **East** – “MX2”; Use is a mixed-use building under construction.

   **West** – “MX1”; Uses are Drake University’s Alumni House and undeveloped lots.

6. General Neighborhood/Area Land Uses: The subject property is located along the south side of the University Avenue mixed-use corridor, directly across from Drake University’s campus.

7. Applicable Recognized Neighborhood(s): The subject property is in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda on August 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 10, 2020 (10 days prior to public hearing) to the Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested ROW.

   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 Drake Neighborhood Association notices were mailed 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. Streets/Sidewalk: The 4-foot by 4-foot proposed vacation to allow for an exterior door swing would be onto the sidewalk in the public ROW on University Avenue. Staff feels that bollards or planters as approved by the Planning Administrator and Traffic Engineering would ensure public safety of pedestrians utilizing the subject sidewalk.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Provision of bollards or planters to both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Provision of bollards or planters to both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator.

THE VOTE: 11-0-1 (Kayla Berkson abstained from the vote).
Item 3

Request from RLBR Holdings, LLC (Owner) represented by Robert Bierma (officer) for review and approval of an amendment to a major Preliminary Plat “McKinley Acres” on properties located at 3359 and 3365 McKinley Avenue, to remove the restriction requiring one drive approach access per two lots fronting McKinley Avenue to allow a separate access for each property at 3359 and 3365 McKinley Avenue.

(13-2021-1.07)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to the approved Preliminary Plat would remove the requirement that Lots 1 & 2 (3359 and 3365 McKinley Avenue) must have a shared driveway from McKinley Avenue.

2. Size of Site: Approximately 2.42 acres.

3. Existing Zoning (site): “N1a” Neighborhood District.

4. Existing Land Use (site): One household dwelling with undeveloped land.

5. Adjacent Land Use and Zoning:

   North – “N1a”, Uses are undeveloped land and one household residential.

   South – “N1a”, Uses are McKinley Avenue and one household residential.

   East – “N3a”, Uses are McKinley Avenue and one household residential.

   West – “P2”, Uses are McKinley Avenue and the Des Moines International Airport.

6. General Neighborhood/Area Land Uses: The subject property is located north of the Des Moines International Airport in an area that primarily consists of low-density residential development.

7. Applicable Recognized Neighborhood(s): The subject property is located in Southwestern Hills Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 10, 2020 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. A Final Agenda for the Commission meeting was mailed to the neighborhood associations on August 14, 2020.

   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 Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.

8. **Relevant Zoning History:** On August 24, 2016, the Zoning Board of Adjustment approved an Exception of 10 feet less than the minimum 80 feet of lot width required for a one household dwelling (for three parcels with 70 feet of frontage) and an Exception of 60 feet less than the minimum required 80 feet of lot width for a one household dwelling, where such lot meets the lot width at the building line (for one flag lot with 20 feet of frontage), subject to the following conditions:

1. Construction of any dwelling shall be in general compliance with building design and elevations as reviewed and approved by the Planning Administrator.

2. The architectural details of each dwelling shall vary from the other dwellings to provide an individualized appearance.

3. Provision of a full basement under each dwelling

4. Provision of a two-car or larger garage. A paved driveway shall be provided for vehicular access to the garage.

5. Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, cement fiber board or other composite materials generally equal in quality to cement fiber board as approved by the Planning Administrator.

6. Any dwelling shall be constructed with a front porch of not less than 60 square feet or at least 1/3 of the front façade shall be clad with stone or brick masonry.

7. Any dwelling constructed shall have window and door trim on all facades that is a minimum of 4-inches wide.

8. The roof on any house constructed shall be of architectural profile asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.

9. Any dwelling or accessory structure shall be constructed in compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.

10. Any modified lot configuration shall be in accordance with a Plat approved by the Permit and Development Center and recorded with Polk County.

On July 26, 2017, a follow-up appeal was approved by the Board of Adjustment for additional relief based on the proposed model home for Exception of 10 feet less than the calculated minimum 40 feet of front yard setback required for a one household dwelling, Exception of 3 feet less than the minimum 10 feet of side yard
setback required on one side for a one household dwelling, and Exception of 6 feet less than the minimum 20 feet of total side yard setbacks required for a one household dwelling, subject to the following conditions:

1. A Final Plat shall be approved by the City Council and recorded with Polk County in accordance with relief granted by the Board on August 24, 2016 by Docket ZON2015-00142.

2. Construction of any dwelling shall be in general compliance with building design and elevations as reviewed and approved by the Planning Administrator.

3. The architectural details of each dwelling shall vary from the other dwellings to provide an individualized appearance.

4. Provision of a full basement under each dwelling

5. Provision of a two-car or larger garage. A paved driveway shall be provided for vehicular access to the garage.

6. Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, cement fiber board or other composite materials generally equal in quality to cement fiber board as approved by the Planning Administrator.

7. Any dwelling shall be constructed with a front porch of not less than 60 square feet or at least 1/3 of the front façade shall be clad with stone or brick masonry.

8. Any dwelling constructed shall have window and door trim on all facades that is a minimum of 4-inches wide.

9. The roof on any house constructed shall be of architectural profile asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.

10. Any dwelling or accessory structure shall be constructed in compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.

11. Any modified lot configuration shall be in accordance with a Plat approved by the Permit and Development Center and recorded with Polk County.

This relief was exercised by the approval of construction of a demonstration one household dwelling unit on August 2, 2017.

On January 19, 2017, the Plan & Zoning Commission approved a Preliminary Plat (13-2017-1.17) to allow subdivision of the property into four (4) lots. However, because a Final Plat was not submitted for approval within the maximum time
frame, this Preliminary Plat expired.

On July 18, 2019, the Plan & Zoning Commission approved proposed Preliminary Plat subject compliance with all administrative review requirements of the Permit and Development Center, including limiting the four lots to only two shared drive approach accesses from McKinley Avenue.

The applicant is now requesting to eliminate the requirement that 3359 and 3365 McKinley Avenue must have a shared driveway from McKinley Avenue.

9. **PlanDSM Land Use Plan Designation:** Low-Density Residential is defined as “areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre.” The density of the proposed lot configuration complies with the “Low Density Residential” designation.

10. **Applicable Regulations:** 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.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Traffic/Street System:** The approved Preliminary Plat requires Lots 1 & 2 and Lots 3 & 4 share common drive approaches. At the time of the approval, the developer agreed to this condition based upon comments from the City’s Traffic & Transportation Division. The City’s intent was, and still is, to limit drive approaches along the City’s arterial road. However, given the existing development pattern along McKinley Avenue, the City’s Traffic & Transportation Division has indicated that they do not object to the elimination of the condition for Lots 1 & 2, as it would result in an increase of just one additional drive approach along McKinley Avenue.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the proposed amendment to the Preliminary Plat, subject to compliance with all administrative review requirements of the City’s Permit and Development Center.
SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of the proposed amendment to the Preliminary Plat, subject to compliance with all administrative review requirements of the City’s Permit and Development Center.

THE VOTE: 12-0

Item 4

City-initiated request for a Public Hearing Site Plan for a City-owned property located at 1300 Scott Avenue within a “DX2” Downtown District, for request of the following Type 2 Design Alternatives in accordance with Chapter 135 Section 135-9.2.4.C and 135-9.3.1.B, in order to allow reuse of the existing building (Downtown General Building Type) on the property by the City of Des Moines, and to include a surface parking lot with 38 spaces.

(10-2021-7.04)

A) Allow additional on-site surface parking when parking is only permitted within a building, per Section 135-2.4.3.C.17.

B) Allow 2 additional driveway accesses, for a total of 3, onto Southeast 12 Street, when only 1 driveway access is permitted onto a non-primary street, per Section 135-2.4.3.A.9.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The City Engineering Department is proposing to have an on-site surface parking lot constructed for additional needed parking for office space occupancy within the existing 54,000-square foot building. The project will construct an on-site surface parking lot, driveway, as well as provide parking lot lighting and fencing.

The subject property is located at the southeast periphery of the downtown zoning districts. These districts do not allow new surface parking to be developed. The Downtown General Building Type also restricts the number of drive entrances for a site. Due to existing terrain and segregated loading function, additional driveways are being proposed beyond an existing driveway onto Southeast 12th Street. Design
alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site**: 3.21 acres.

3. **Existing Zoning (site)**: “DX2” Downtown District.

4. **Existing Land Use (site)**: The property contains a Workshop/Warehouse building owned by the City and used to house storage and office functions for various departments of the City in transition as the City continues to build several new facilities for these departments.

5. **Adjacent Land Use and Zoning**:
   - **North** – “DX2”; Use is the East M.L. King Jr. Parkway/Southeast Connector corridor.
   - **South** – “MX3-V”; Use is vacant land.
   - **East** – “I2-V”; Uses are Southeast 14th Street/U.S. Highway 69 viaduct and vacant land.
   - **West** – “DX2”; Uses one household dwelling, vacant land, and regional storm water detention area.

6. **General Neighborhood/Area Land Uses**: The subject property is located along the Southeast Connector corridor at the very southeast edge of the Downtown/East Village. The surrounding area is a transition between a mix of commercial, industrial, governmental and residential uses.

7. **Applicable Recognized Neighborhood(s)**: The subject property is in the Historic East Village Neighborhood. A notice of the meeting was mailed on July 31, 2020 to the Historic East Village Neighborhood Association and 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 all recognized neighborhoods on August 14, 2020.

   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 mailings were sent to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

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. Parking: The subject property is zoned “DX2” Downtown District. Section 135-2 of the Planning and Design Ordinance allows the Downtown Storefront, Downtown General, Civic Building and Principal-Use Parking Structure building types in the “DX2” Downtown District. The Downtown General Building Type is the applicable type for this application. It does not allow surface parking lots and requires all parking to take place within the building. Therefore, the proposed parking lot project requires Type 2 Design Alternative review by the Commission.

While it is the intent in the Downtown districts to not add new surface parking, the demand for the parking is present. The economics do not justify the cost of adding structured parking to meet this demand, based on the level of occupancy being added to the building. Also, the timeline needed to construct structured parking would not provide the parking in sufficient time to meet the demand for the parking at this location.

Staff believes that the proposed additional driveways onto Southeast 12th Street are necessary due to the need to segregate loading and parking functions and due to variation in grade. The existing driveway is at the northwest part of the site which is terraced higher than the southwestern portion of the site proposed for the on-site parking construction.

Staff supports the requested Type 2 Design Alternatives to allow parking lot improvements in this case. The site is not being completely redeveloped where parking could be provided more economically within the building or as structured parking. Additionally, the property is located at the periphery of the downtown along the Southeast Connector and Southeast 14th Street/U.S. Highway 69 corridors and is not considered to be walkable as the more centrally located areas of the downtown.

2. Streetscape Requirements: Black street light fixtures and poles are the desired development pattern in the downtown as administered through Section 135-7 of the Planning and Design Ordinance. Development is expected to upgrade street lights in adjoining Rights-Of-Way through the site plan review process. Traffic Engineering did not require the Class A sidewalk installation with tree planters in this location. However, minimum 5-foot wide sidewalks are proposed in street frontages where there are not currently sidewalks.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternatives, subject to compliance with all administrative review comments.
SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested Type 2 Design Alternatives, subject to compliance with all administrative review comments.

THE VOTE: 12-0

Item 5

Request from 3801 Grand Associates LP (owner), represented by Frank Levy (officer), for review and approval of a “PUD” Final Development Site Plan “3801 Grand Avenue” for property located at 3801 and 3721 Grand Avenue, to allow development of a 4-story independent senior living apartment building in accordance with the 3801 Grand Avenue “PUD” Conceptual Plan requirements. (10-2020-7.126)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 4-story multiple-household building with 57 units that would connect to the existing senior housing development to the west. The boundary of the “PUD” also includes a commercial property with frontage along Ingersoll Avenue.

2. Size of Site: 174,828 square feet or 4.01 acres.

3. Existing Zoning (site): Legacy “PUD” Planned Unit Development District.

4. Existing Land Use (site): An independent senior living apartment building, an assisted living apartment building, and an office building.

5. Adjacent Land Use and Zoning:
North – “MX2”: Uses are commercial businesses along Ingersoll Avenue.

South - “NX3” & P2”: Uses are multiple-household residential and institutional.

East - “NX3”: Uses are multiple-household residential.

West - “P2”: Use is a church.

6. General Neighborhood/Area Land Uses: The site is located on the north side of Grand Avenue to the east of the 39th Street intersection. The Grand Avenue corridor contains a mix of multiple-household residential, institutional, and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the North of Grand Neighborhood and within 250 feet of both the Greenwood Historic Neighborhood and the Salisbury Oaks Neighborhood. All neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda on August 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 10, 2020 (10 days prior to the original 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. The North of Grand Neighborhood Association mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312. The Greenwood Historic Neighborhood Association mailings were sent to Nicholas Larson, 127 34th Street, Des Moines, IA 50312. The Salisbury Oaks Neighborhood Association mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312.

8. Relevant Zoning History: On March 9, 2020, the City Council rezoned the subject property to “PUD” District and conditionally approved the 3801 Grand Avenue “PUD” Conceptual Plan by Roll Call Number 20-0473 and Ordinance Number 15,873. The Plan and Zoning Commission considered this request on February 6, 2020.


10. Applicable Regulations: Considering the criteria set forth in Chapter 18B of the Iowa Code, and based on the provisions of Chapter 134 Section 134-2.2.9.C, all PUD Final Development Plans must be reviewed and approved by the City Council after review and recommendation by the Plan and Zoning Commission.

II. ADDITIONAL APPLICABLE INFORMATION

1. Drainage & Grading: All grading is subject to an approved grading permit and soil erosion control plan. The applicant is required to demonstrate compliance with the
City’s Stormwater Management requirements to the satisfaction of the City’s Permit and Development Center. Groundwater recharge pits would be constructed below the access drives to the north and south of the new building.

2. **Access & Parking:** The site is located on the north side of Grand Avenue. The Development Plan includes a driveway at the east end of the site and an access drive that connects to a driveway that would be shared with the building to the west. A total of 74 parking spaces would be added with the construction of the new building with 69 of the spaces being located within the basement of the building.

3. **Urban Design:** The applicant is proposing to construct a 4-story multiple-household building with 57 dwelling units. The units would complement the existing senior housing development to the west, which are also located in the “PUD” District. The new building would be contemporary in style with a mix of masonry, metal, prefinished wood, and fiber cement board panel siding. Units on all sides of the building would have balconies. The stack of balconies near the front entrance would have glass railing. The remaining balconies would consist of galvanized steel construction.

   The design of the building generally matches the design that was presented with the “PUD” Conceptual Plan. However, the applicant has decreased the amount of metal siding on the front façade and eliminated the accent brick siding in the interior courtyard area. Staff has asked the applicant to look at alternatives that would better reflect the level of material quality expressed by the original design. The applicant team is currently exploring alternatives. Staff recommends approval subject to the review of the finalized building design and materials by the Planning Administrator. This will allow Staff to continue to work with the applicant in considering alternatives.

### III. STAFF RECOMMENDATION

Staff recommends approval of the proposed “PUD” Final Development Site Plan, subject to the following conditions:

1. Compliance with all administrative review requirements.

2. Review and approval of the finalized building design and materials by the City’s Planning Administrator.

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:

Emily Webb made a motion for approval of the proposed “PUD” Final Development Site Plan, subject to the following conditions:
1. Compliance with all administrative review requirements.

2. Review and approval of the finalized building design and materials by the City’s Planning Administrator.

THE VOTE: 12-0

Item 6

Request from Lil Brother Construction, LLC (purchaser), represented by Jean Jones (officer), for the following, regarding property located at 2025 East Grand Avenue. The subject property is owned by Cypress Properties, LLC.

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 to Industrial. (21-2020-4.17)

C) Rezone property from “RX1” Mixed Use District to “I1” Industrial District to allow reuse and expansion of the existing building and site for “Office, Business and Industrial Service, Light” uses for a construction and home repair contractor business. (ZON2020-00088)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property is the former East Side Boxing Club and is proposed to be used as the office and storage building for a construction and home repair contractor business which is allowed in the “I1” District. The proposed change of use would require a site plan and building elevations to be submitted for review and approval pursuant to Chapter 135 Planning and Design Ordinance of the City Code.

2. Size of Site: 28,400 square feet (0.652 acres).

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

4. Existing Land Use (site): The site contains a one-story, 1,470-square foot building originally built as a fuel station with limited retail use and most recently used for sports and recreation, indoor use.

5. Adjacent Land Use and Zoning:
North – “N3c”; Uses are one household dwelling units.

South – “N3c”; Uses are one household dwelling units.

East – “N3c”; Uses are one household dwelling units.

West – “I2”; Uses are commercial and industrial uses.

6. General Neighborhood/Area Land Uses: The subject property is located on the south side of East Grand Avenue just east of the East 20th Court intersection. The area contains a mix of industrial, commercial, and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Fairground Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda on August 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 31, 2020 (20 days prior to the public hearing) and on August 10, 2020 (10 days prior to the public hearing) to the Fairground 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 Fairground Neighborhood Association notices were mailed to Laura Mundy, PO Box 473, Des Moines, IA 50327.

During the Governors emergency declaration due to COVID-19 pandemic, the applicant is responsible for reaching out to the surrounding property owner within 250 feet through a written communication soliciting questions and input and providing responses. The applicant shall provide a report on the outcomes of this process prior to the Plan and Zoning Commission meeting, and provide a summary at the hearing.

8. Relevant Zoning History: On May 7, 2007, the City Council rezoned the site to Limited “C-2” District by Ordinance No. 14,650. The rezoning at that time allowed for any use as permitted in and as limited in the “C-1” Neighborhood Retail Commercial District and a physical culture and health establishments, including but not limited to a boxing club.

The property was subsequently rezoned to the current “RX1” Mixed Use District effective on December 15, 2019 with the citywide zoning update.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The subject property is designated as “Low Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

   Low Density Residential as areas developed with primarily single-family and two-family residential units with up to 6 dwellings.

   The applicant is proposing to rezone the property from “RX1” District to “I1” District. The Chapter 134 Zoning Ordinance of the City Code states that “RX1” is intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity appropriate for corridor’s adjacent to lowscale neighborhoods.”

   The proposed “I1” District zoning requires the “Industrial Use” designation on the Future Land Use Map. PlanDSM describes this designation as follows:

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

   The Zoning Ordinance states that “I1” is intended for general industrial uses, warehousing, and transportation terminals.”

2. Planning and Design Ordinance: Any development must comply with all applicable Site Plan regulations of Chapter 135 Planning and Design Ordinance of the City Code. Should the rezoning be approved, the applicant would be required to prepare a Site Plan with building elevations for review before the property can be occupied by the proposed use.

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 Chapter 42 Section 42-550 of the City Code.
III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “I1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designations of “Low Density Residential”.

Part B) Staff recommend approval of an amendment to PlanDSM: Creating Our Tomorrow Plan Land Use Plan revising the future land use designation from “Low Density Residential” to “Industrial”.

Part C) Staff recommends approval of the requested rezoning from “RX1” Mixed-Use District to “I1” Industrial District subject to the following conditions:

1. The site shall be brought into conformance with current landscaping standards with any site plan.

2. Outdoor Storage shall not be principle use and shall only be allowed as an accessory use in accordance with provisions for accessory outdoor storage areas.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the proposed rezoning to “I1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designations of “Low Density Residential”, Part B) APPROVAL of an amendment to PlanDSM: Creating Our Tomorrow Plan Land Use Plan revising the future land use designation from “Low Density Residential” to “Industrial” and Part C) APPROVAL of the requested rezoning from “RX1” Mixed-Use District to “I1” Industrial District subject to the following conditions:

1. The site shall be brought into conformance with current landscaping standards with any site plan.

2. Outdoor Storage shall not be principle use and shall only be allowed as an accessory use in accordance with provisions for accessory outdoor storage areas.

THE VOTE: 12-0
NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Bell Avenue Properties, Inc. (owner) represented by Guy Gast (officer) for review and approval of a Preliminary Plat "Airport Industrial Park Plat 3", for property located at 6200 Scout Trail, to define a 27.27-acre development parcel for previous Outlots X and Y in Airport Industrial Park Plat 2, to provide turnaround Right-Of-Way (ROW) for Scout Trail, and to provide ROW to realign Southwest McKinley Avenue. (13-2021-1.03)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The developer is seeking to divide the subject property, provide turnaround Right-Of-Way (ROW) for Scout Trail, and to provide ROW to realign Southwest McKinley Avenue. This would also remove the Outlot status of the property.

2. Size of Site: 30.03 acres.


4. Existing Land Use (site): Headquarters facility for Waldinger including office and workshop and warehousing uses.

5. Adjacent Land Use and Zoning:

   North – “EX”, Use is the Mid-Iowa Council of the Boy Scouts of America Headquarters.

   South – “RX1”, Uses are single-family dwellings.

   East – “P2”, Use is large acreage single-family dwellings.

   West – “OS” Agricultural/Open Space (West Des Moines), Use is Brown’s Woods (Polk County Park).

6. General Neighborhood/Area Land Uses: The subject property is located northwest of the Des Moines International Airport along the Iowa Highway 28 (Southwest 63rd Street) corridor, which is primarily developed with light industrial uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Southwestern Hills Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 10, 2019 (10 days prior to the initially scheduled hearing) to the primary
titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property. A final agenda was mailed to all recognized neighborhood associations on August 14, 2020.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, Iowa 50321.

8. **Relevant Zoning History:** On July 9, 2018, by Ordinance No. 15,683 the City Council rezoned a majority of the property from Limited “C-2” District to a Limited “M-1” District subject to the following conditions:

A) Overhead doors shall not face Iowa Highway 28 or any residentially developed property unless screened by another building or by earthen berms and landscaping materials.

B) Provision of landscaping in accordance with the City’s standards for “C-2” Districts.

C) No portion of the property within 50 feet of the public Rights-Of-Way or adjoining residentially zoned property may be used for the outside storage of materials, trailers or equipment. Any area used for the outside storage of materials or equipment shall be paved and screened from public street views and residential development by an architectural screening panel system or fencing/landscaping as approved by the Commission or Planning Administrator.

D) The public street facades of any building or portion thereof located within the Property which is not blocked from view by other structures or landscaping shall be construed using exterior materials that are predominately glass, brick, masonry, architectural steel panels and other durable materials. No Exterior Insulations and Finish System (“EIFS”) shall be used below an elevation of 6 feet above grade on such facades.

E) Compliance with all recommendations of the traffic study as part of any submitted subdivision or site plan.

F) Any site plan for development shall be reviewed by the Plan and Zoning Commission.

On April 4, 2019, the Plan and Zoning Commission approved a Preliminary Plat for “Airport Industrial Park Plat 3”. This Preliminary Plat subsequently expired due to the lack of a Final Plat being filed for review within 270 days of its approval plus a 90-day extension by the Permit and Development Center Coordinator per Chapter 106 Section 106-72(g) of the City Code. On the same date, the Commission also approved a Site Plan for a corporate headquarters building with 90,000 square feet of office space on two stories and a 113,000 square feet of production area on the main level.

The applicant initially appealed a Site Plan requirement for a trail installation along Southwest 63rd Street as part of the “Waldinger Headquarters”, but the Council
dismissed the appeal on May 6, 2019 when the appeal was withdrawn by the developer.

The property was subsequently zoned to “EX” Mixed Use District with the citywide rezoning, effective December 15, 2019.


10. **Applicable Regulations**: In consideration of the criteria set forth in Chapter 18B of the Iowa Code, in acting upon any Preliminary Plat application the Plan and Zoning Commission shall apply the design standards in Chapter 106 Article III of the City Code. The decision to approve, approve subject to conditions or disapprove a proposed Preliminary Plat must be based upon the conformance of the standards.

II. **ADDITIONAL APPLICABLE INFORMATION**

With the exception of some final post construction site restoration, the property has essentially been developed in compliance with the approved Site Plan and public improvement plans approved in accordance with the previously approved Preliminary Plat. There are minor comments in the administrative review relative to identification of subsequently recorded easements and the change to the zoning classification that the Plat must be in compliance with.

A Final Plat has been submitted but may not be moved to the City Council for approval until the submitted Preliminary Plat is re-approved by the Commission. The Subdivision Regulations have not been amended since the previous approval so there is no cause to review the Plat under any separate standards than were reviewed previously.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the submitted Preliminary Plat subject to compliance with all administrative review comments by the Permit and Development Center.

**SUMMARY OF DISCUSSION**

Erik Lundy presented staff report and recommendation.

Guy Gast, 204 SW Camden Dr. Ankeny, IA Representing Waldinger Corp. stated they haven’t changed anything within the site plan or plat, the item tonight allows them to stay in compliance with the final plat process.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Nick Van Patten, 6020 SW McKinley Avenue stated he believes issues were not followed through regarding vacation of right-of-way along the south side of McKinley Avenue and he would like to know what they plan to do.
Guy Gast stated this is the same version of the plat that was submitted and approved by the Plan and Zoning Commission last year. The piece of ground Mr. Van Patten is talking about is something they don’t have control of because it’s within the existing City right-of-way. They have provided a berm to raise and relocated trees to reduce line of site to the Waldinger property.

Mike Ludwig stated the ground Mr. Van Patten is referring to on the South edge is existing City right-of-way. Waldinger isn’t changing anything, they are just showing the existing right-of-way on the plat. Mr. Van Patten could submit a request for Vacation of the right-of-way. It it is determined that the right-of-way is not needed for public purpose, the City Council could consider conveyance of the vacated right-of-way to an adjoining property owner to use for landscaping or screening they feel is appropriate.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Dory Briles made a motion for approval of the submitted Preliminary Plat subject to compliance with all administrative review comments by the Permit and Development Center.

**THE VOTE:** 11-0-1 (Carolyn Jension abstained from the vote).

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**Item 7**

Request from Menard Inc. (owner), represented by Theron Berg (officer), for the properties located at 6000 Southeast 14th Street; 5907, 5911, and 5917 Southeast 8th Street; and 801 Hart Avenue. Additional subject property is owned by Nicholas Dingeman, Barbara Orr, Kimberly Howland and Carol Shields.

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

B) Amend PlanDSM Creating Our Tomorrow Comprehensive Plan the revise the future land use classification from Low Density Residential within a Regional Node to Community Mixed Use within a Regional Node. (21-2020-4.15)

C) Review and approval of a Large-Scale Development Plan for expansion to existing 20.8-acre site for Retail Sales, Large-Format use.

D) Rezone property from “N3a” Neighborhood District and “MX3-V” Mixed Use District to “CX-V” Mixed Use District to allow the expansion of the existing Menard’s home improvement center Retail Sales, Large Format use with a with an additional 30,855-square foot warehouse (ZON2020-00084)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The requested rezoning would allow an expansion of the Menard’s store. The expansion would consist of a new three-lane lumberyard gate, a new 30,855-square foot accessory building, the addition of a third loading dock and enclosure of the rear overhang, and a partial enclosure of the garden center. According to the application, the materials used on these additions will match what exists today.

2. Size of Site: The existing Menard’s site contains approximately 19.54 acres. The four (4) parcels to the west that would be added to site contain approximately 1.25 acres.

3. Existing Zoning (site): The majority of the existing Menard’s property is zoned “MX3-V” Mixed Use District. The western 90 feet and the four (4) properties containing one-household dwellings are zoned “N3a” Neighborhood District.

4. Existing Land Use (site): The property contains a Menard’s home improvement/retail store and four (4) one-household dwellings.

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 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.

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 July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 31, 2020 (20 days prior to the hearing) and August 10, 2020 (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 August 14, 2020.

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.

During the Governors emergency declaration due to COVID-19 pandemic, the applicant is responsible for reaching out to the surrounding property owner within 250 feet through a written communication soliciting questions and input and providing responses. The applicant shall provide a report on the outcomes of this process prior to the Plan and Zoning Commission meeting, and provide a summary at the hearing.

8. **Relevant Zoning History:** On June 22, 2009, by Ordinance 14,852, the City Council rezoned the existing Menard’s site to Limited “C-2” District, subject to the following conditions:

1. The westernmost 90 feet of the subject property shall remain zoned “R1-60” One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
   a. Vehicle display lots, including but not limited to used car sales lots;
   b. Adult entertainment businesses;
   c. Taverns and nightclubs;
   d. Off-premises advertising signs; and
   e. Package goods stores for the sale of alcoholic beverages.
3. Any commercial development on the Property shall be setback at least 55 feet from the north side property line.
4. Any commercial development on the Property shall be screened with a continuous 14-foot tall solid wall that is setback at least 55 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treated lumber with no spacing between boards.
5. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.
6. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
7. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
   a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
   b. Provide landscaped bufferyards and open space in conformance with the City’s adopted landscape standards.
8. Any commercial expansion onto the Property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.

9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.

10. 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 Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

Subsequent to this rezoning, the Menard's site was expanded to incorporate what is now the northern portion of the existing site.

When the City's current zoning ordinance and map took effect on December 15, 2019, the portions of the site that were zoned Limited “C-2” District became zoned “MX3-V” Mixed Use District that the portions of the site that were zoned “R1-60” District became zoned “N3a” Neighborhood District.

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

10. **Applicable Regulations**: Taking into the consideration of 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 Future Land Use Plan**: The proposed rezoning requires the future land use plan designation for the westernmost of the property to be revised from “Low Density Residential” within a Regional Node to “Community Mixed Use” within a Regional Node. Staff believes that the amendment would be appropriate only so long as the subsequent rezoning is subject to zoning conditions that adequately protects and preserves the residential character of the properties immediately to the west and north of the site.

2. **Zoning Conditions**: In order to ensure that the expansion that would be allowed by the proposed rezoning is compatible with the adjoining residential uses, Staff recommends zoning conditions that are substantially similar to those that the applicant agreed to in 2009, when the premises was expanded onto the northern portion of the site. The conditions recommended by Staff are contained in Section III of this report. Most notably, since the portion of the site along the west property line would involve the use of heavy equipment, such as trucks and forklifts, Staff recommends that it is necessary to require a 100-foot foot setback from the
westerly property line, as well as a 14-foot solid wall, in order to minimize impacts from noise. Staff notes that this would reduce the depth of the expansion area by approximately 47 feet.

3. **Large Scale Development Plan**: The recently updated 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. The proposed Plan submitted essentially provides a master plan for the proposed expanded Menard’s use. The only significant modifications to the site are located to the west of the existing building. There are not any significant plans proposed for changing access points to the public street network or adjoining properties. Staff recommends that approval of the Large-Scale Development Plan be subject to provision of a note that states any development shall comply with the zoning conditions contained in any Ordinance that rezones all or a portion of the property and the requirements of Chapter 135 Planning and Design Ordinance.

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.

5. **Permit and Development Center Comments**: Any future expansion of the existing retail use would be subject to compliance with all applicable Building Codes and compliance with Chapter 135 Planning and Design Ordinance requirements. Furthermore, any required permits must be obtained from the City’s Permit and Development Center.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning is not in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Low Density Residential” in a Regional Node.

Part B) Staff recommends approval of the amendment to PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from “Low Density Residential” within a Regional Node to “Community Mixed Use” within a Regional Node.

Part C) Staff recommends approval of the submitted Large-Scale Development Plan subject to provision of a note that states the development will comply with the conditions of an Ordinance to rezone and all requirements of Chapter 135 Planning and Design Ordinance.

Part D) Staff recommends approval of the requested rezoning of the property from “N3a” Neighborhood District and “MX3-V” Mixed Use District, to “CX-V” Mixed Use District, subject to the applicant agreeing to the following zoning conditions:
1. Any commercial development on the Property shall be setback at least 100 feet from the westerly property line, which adjoins properties that contain one-household dwellings and public Right-of-Way for Southeast 8th Street. This setback shall fully comply with the plant material requirements of the heavy buffer requirements of Chapter 135 Section 135-7.8.4.D of the Planning and Design Ordinance.

2. Any commercial development on the Property shall be setback at least 55 feet from the northerly property line, which adjoins properties that contain one-household dwellings. This setback shall contain at least 4 shade trees and at least 8 evergreen trees per 100 lineal feet measured along the property line.

3. Any commercial development on the Property shall be screened with a continuous 14-foot tall solid wall that is setback at least 100 feet from the westerly property line and 55 feet from the northerly property line. The bottom 4 feet shall be constructed of a masonry material and the upper 10 feet may be constructed of 2-inch by 8-inch vertical treated lumber with no spacing between boards.

4. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.

5. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.

6. Any use of the property for a bar or for a liquor store shall be prohibited.

7. Any commercial use of the Property shall be in conformance with an approved site plan that demonstrates the entire site is in compliance 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.)

8. 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.

9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.

10. 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.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.
Johnny Alcivar asked if there is currently a 100-foot set back along the West property line.

Bert Drost stated yes.

Greg Wattier stated with the existing right-of-way being roughly 50-feet, they would have over 100 feet of setback.

Bert Drost stated they have recommended a 100-foot set back excluding the right-of-way to maintain the characteristic of the neighborhood.

Nick Brenner, 5101 Menard Drive, stated everything they are doing is so Menard’s can compete with online retailing by enclosing the existing lumber yard for a climate controlled area and building the additional warehouse. The one thing they do not agree with is the 100-foot set back to the West property line as they cannot move any closer to the store based on building code requirements. They are over 100-feet from the closest property as they sit 53-feet away from the existing right-of-way and the right-of-way itself being 50-feet wide. Based on some of the comments received, they believe noise will be less as they are proposing to construct a new 29-foot tall enclosed warehouse versus an outdoor storage yard.

CHAIRPERSON OPENED THE PUBLIC HEARING

None were present of requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Johnny Alcivar requested to see the consent map.

Bert Drost displayed the map.

COMMISSION ACTION:

Francis Boggus made a motion for approval of Part A) the Commission find the requested rezoning is not in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Low Density Residential” in a Regional Node, Part B) APPROVAL of the amendment to PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from “Low Density Residential” within a Regional Node to “Community Mixed Use” within a Regional Node, Part C) APPROVAL of the submitted Large-Scale Development Plan subject to provision of a note that states the development will comply with the conditions of an Ordinance to rezone and all requirements of Chapter 135 Planning and Design Ordinance and Part D) APPROVAL of the requested rezoning of the property from “N3a” Neighborhood District and “MX3-V” Mixed Use District, to “CX-V” Mixed Use District, subject to the applicant agreeing to the following zoning conditions:

1. The westerly setback of any commercial development on the Property shall be in accordance with the Large-Scale Development Plan presented to the Plan &
Zoning Commission. This demonstrates that the majority of any development shall be setback at least 100 feet from the westerly property line. However, an expansion area demonstrated on the southwestern portion of the site shall be setback at least 53 feet from the westerly property line and at least 90 feet from the northerly property line adjoining 5901 Southeast 8th Street. This setback area shall fully comply with the plant material requirements of the heavy buffer requirements of Chapter 135 Section 135-7.8.4.D of the Planning and Design Ordinance.

2. The northerly setback of any commercial development on the Property shall be in accordance with the Large-Scale Development Plan presented to the Plan & Zoning Commission. This demonstrates that any development shall be setback at least 55 feet from the northerly property line. This setback area shall contain at least 4 shade trees and at least 8 evergreen trees per 100 lineal feet measured along the property line.

3. Any commercial development on the Property shall be screened with a continuous 14-foot tall solid wall that is in accordance with the Large-Scale Development Plan presented to the Plan & Zoning Commission. The bottom 4 feet shall be constructed of a masonry material and the upper 10 feet may be constructed of 2-inch by 8-inch vertical treated lumber with no spacing between boards.

4. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.

5. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.

6. Any use of the property for a bar or for a liquor store shall be prohibited.

7. Any commercial use of the Property shall be in conformance with an approved site plan that demonstrates the entire site is in compliance 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.)

8. 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.

9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.

10. 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.
THE VOTE: 12-0

Item 8

City-initiated request to rezone property in the vicinity of Southeast 4th Street and East Market Street, generally from the Des Moines River on the west to Southeast 5th Street on the east, and from East Vine Street on the north to East Martin Luther King Jr. Parkway on the south.

A) Vacation of Raccoon Street from Southeast 4th Street to Southeast 5th Street, and the north/south segment of alley between Southeast 4th Street to Southeast 5th Street from Raccoon Street to East Martin Luther King, Jr. Parkway.
(11-2020-1.09)

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

C) Review and approval of a Large-Scale Development Plan for the area, and where its adoption would be a revision to the Market District of the East Village Master Plan element of PlanDSM Creating Our Tomorrow Comprehensive Plan.
(21-2020-4.16)

D) Rezone property in the area west of Southeast 2nd Street from “DX2” Downtown District to “DXR” Downtown District, and rezone the property in the area east of Southeast 2nd Street from “DX2” Downtown District to “DX1” Downtown District.
(ZON2020-00085)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

Staff from the City’s Office of Economic Development are working with a principal developer on the phase of the Market District redevelopment that necessitates the rezoning. On behalf of the City, Office of Economic Development Staff have requested that the consideration of the proposed street vacation, Large-Scale Development Plan, and rezoning be delayed until the meeting of the Plan and Zoning Commission scheduled for September 17, 2020, which would allow for additional discussion with the prospective developer.

III. STAFF RECOMMENDATION
Staff recommends that the Commission continue the public hearing on consideration of the proposed items until their September 17, 2020 meeting. A complete Staff report and recommendation will be provided with the Commission packet for that meeting.

SUMMARY OF DISCUSSION

Erik Lundy stated the applicant for item #8 has requested a continuance to the September 17, 2020 Plan and Zoning Commission meeting.

COMMISSION ACTION:

Dory Briles made a motion for continuance to the September 17, 2020 meeting.

THE VOTE: 12-0

Item 9

Request from Aust Real Estate (owner), represented by Matt Aust (officer), for review and approval of a Site Plan “1201 Keosauqua Way” requiring the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 1201 Keosauqua Way, in order to allow redevelopment of the existing building and site. (10-2020-7.108)

A) Waiver of the 12-foot wide sidewalk standard that would require the 12th Street curb line to be shifted to the east per Section 135-8.5.

B) Waiver of the sidewalk bump-out standard for the Keosauqua Way and 12th Street intersection per Section 135-8.5.

C) Waiver of the trash enclosure standards that require a pedestrian entrance, a landscape buffer, and space on the property for the gates to swing open without extending into any public right-of-way per 135-7.10.4.

D) Waiver of the minimum number of required off-street parking spaces per Section 135-6.4

E) Waiver of the standard that requires the overhead utilities along Crocker Street to be undergrounded per Section 135-9.2.E.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant is proposing to renovate the existing building and site. The building would have multiple commercial tenant spaces and one (1) dwelling unit. 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:** 13,983 square feet (0.321 acre).

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

4. **Existing Land Use (site):** The property contains a historic brick building that has housed a variety of uses over the years.

5. **Adjacent Land Use and Zoning:**
   - **North** – “MX2”; Uses are commercial.
   - **South** – “MX2”; Uses are commercial.
   - **East** – “DX2”; Use is commercial.
   - **West** – “MX2”; Use is commercial.

6. **General Neighborhood/Area Land Uses:** The subject property is located at the northwest perimeter of the downtown along the Keosauqua Way corridor. The surrounding area contains a mix of commercial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 of a recognized neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda on August 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 10, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division.

8. **Relevant 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:
    - 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. **Sidewalks**: Pursuant to Section 135-8.5 of the Planning and Design Ordinance (City Code Chapter 135), the applicant has been directed to provide a 12-foot wide class “A” sidewalk along 12th Street and to construct a bump-out at the intersection Keosauqua Way and 12th Street intersection. The existing 12th Street sidewalk generally measures 10 feet, 11 inches in width. The applicant has indicated that moving the curbline and adding the bump-out would impact other utility functions and add an additional cost to the project. The existing curbline does not provide enough space for street trees to be provided along 12th Street. The applicant is proposing a series of planter beds that would contain ornamental grasses.

Staff believes it is reasonable to require the curbline to be adjusted and for a bump-out to be constructed on a project of this scale and that doing so is physically possible. The site is located in the downtown and both of these improvements would enhance the pedestrian environment and comply with the goals of the City’s comprehensive plan (PlanDSM) and transportation plan (MoveDSM).

2. **Refuse and Recycling Area Screening**: The applicant is proposing to construct a trash enclosure along the north property line to the west of the building. The design does not include a separate pedestrian entrance or plant material along the perimeter of the enclosure walls. The enclosure gates would swing into the Crocker Street right-of-way. This does not comply with the standards found in Section 135-7.10.4 of the Planning and Design Ordinance.

There are limited options for locating a trash enclosure since most of the site is occupied by the existing building. Moving the enclosure to the south is not practical given the grade difference from the Crocker Street sidewalk to the site. Providing a pedestrian entrance and 5-foot wide planting buffer would greatly reduce the amount of space available for the planned outdoor plaza. Outdoor spaces, such as the proposed plaza, add to the vibrancy of the downtown.

3. **Parking**: The subject property is zoned “MX2” District. Therefore, the proposed development is required to provide 27 parking space on-site or on the adjoining street segments. The site is mostly occupied by the existing building with courtyard and utility space planned for the balance of the site. The Site Plan indicates that 10 on-street parking spaces would be provided along the adjoining portions of Crocker Street and 12th Street.

The property is located at the edge of the downtown and designated as “Downtown Mixed Use” on the Plan DSM Future Land Use Map. The property to the east is zoned “DX2” District. The downtown zoning districts (“DX1” and “DX2”) do not require parking. The applicant faces a practical difficulty in providing parking since the building occupies most of the site. The proposal is compatible with the character of the surrounding area.

4. **Overhead Utilities**: The adjoining Crocker Street and 12th Street rights-of-way contain overhead utility lines. The applicant is proposing to underground the lines along 12th Street but not Crocker Street. They have submitted an email from MidAmerican Energy that indicates undergrounding the lines along Crocker Street
would cost $230,000. Staff does not have written documentation that discusses how this would impact the project budget or that identifies any physical constraints that may exist. Therefore, staff recommends denial of the request.

5. **Additional Information:** The applicant will be required to submit a vacation of right-of-way request for the trash enclosure gates if the Type 2 Design Alternative is approved allowing the gates to swing over the sidewalk. It appears that four (4) doors on the Keosauqua Way façade and one (1) door on the Crocker Street façade would swing outward, over the sidewalk. Right-of-way vacations would be required for these doors, as well.

### III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to waive the 12-foot wide sidewalk standard along 12th Street.

Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk bump-out requirement for the Keosauqua Way and 12th Street intersection.

Staff recommends approval of the requested Type 2 Design Alternative to waive the trash enclosure standards that require a pedestrian entrance, a landscape buffer, and space on the property for the gates to swing open without extending into any public right-of-way.

Staff recommends approval of the requested Type 2 Design Alternative to waive the minimum number of required parking spaces.

Staff recommends denial of the requested Type 2 Design Alternative to waive the standard that requires the overhead utilities along Crocker Street to be undergrounded.

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

a. Revision of the Site Plan and building elevations to comply with any approved Type 2 Design Alternatives.

b. Revision of the Site Plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.

### SUMMARY OF DISCUSSION

**Jason Van Essen** presented staff report and recommendation.

**Mindy Aust,** 1031 7th Representing Aust Incorporated Street stated they will be undergrounding along 12th Street but the Mid-American quote for $230,000 to underground all utilities along Crocker Street is too much a financial burden.
Dillon Jones, 325 E. 5th Street Genus Landscaping Architects representing the applicant stated that they did not believe bump-outs where warranted at Keo and 12th Street because of low pedestrian traffic county, cost and it would eliminate a parking spot. The applicant will construct bump-outs along Crocker Street.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

None were present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Johnny Alcivar stated that he supports the staff recommendations to require the sidewalk bump-out for the Keosauqua Way and 12th and undergrounding of all utilities.

Greg Wattier stated he wouldn’t be able to support the undergrounding of utilities along Crocker but does agree with the bump-out along at Keo and 12th Street.

Johnny Alcivar stated that based on the impact of the storm that came through the past week, it would be best to move forward with underground all utilities.

**Johnny Alcivar made a motion for approval of the staff recommendations.**

Motion failed 3-9 (Boggus, Alcivar and Chungath voted in support. Briles, Wattier, Howard, Berkson, Freed, Webb, Sposato, Wallace and Jenison voted in opposition).

**COMMISSION ACTION:**

Greg Wattier made a motion for **DENIAL** of the requested Type 2 Design Alternative to waive the 12-foot wide sidewalk standard along 12th Street.

**DENIAL** of the requested Type 2 Design Alternative to waive the sidewalk bump-out requirement for the Keosauqua Way and 12th Street intersection.

**APPROVAL** of the requested Type 2 Design Alternative to waive the trash enclosure standards that require a pedestrian entrance, a landscape buffer, and space on the property for the gates to swing open without extending into any public right-of-way.

**APPROVAL** of the requested Type 2 Design Alternative to waive the minimum number of required parking spaces.

**APPROVAL** of the requested Type 2 Design Alternative to waive the standard that requires the overhead utilities along Crocker Street to be undergrounded.

**APPROVAL** of the proposed Public Hearing Site Plan subject to the following:
a. Revision of the Site Plan and building elevations to comply with any approved Type 2 Design Alternatives.

b. Revision of the Site Plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.

THE VOTE: 12-0

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Committee and Director’s Reports:

Meeting adjourned at 7:45pm