The September 3, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 932 5251 2882.


P&Z ABSENT: Dory Briles

STAFF PARTICIPANTS: Mike Ludwig, Tyler Hall, Glory Parks, Bert Drost, Jason Van Essen, Erik Lundy, Judy Parks-Kruse, Glenna Frank and Dolores Briseno.

Abigail Chungath made a motion to approve the August 20, 2020 Plan and Zoning Commission meeting minutes. Motion Carried 11-0-2 (Greg Jones and Will Page abstained as they were not present for the August 20 meeting).

Jann Freed asked if any members of the public or the Commission requested to speak regarding consent agenda items #1 or #2. None requested to speak.

Erik Lundy advised that the applicant for item #5 agrees with staff recommendations and could be considered as part of the consent agenda.

Jann Freed asked if any members of the public or the Commission wanted to speak regarding Item #5. None requested to speak.

Will Page made a motion to move item #5 to the consent agenda. Motion Carried 12-0-1 (Greg Wattier abstained from the vote).

Abigail Chungath made a motion to approve Consent Agenda Items #1, #2 and #5. Motion carried 13-0 for items #1 and #2. Motion Carried 12-0-1 for item #5 (Greg Wattier abstained from the vote).

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request for vacation of the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, SW 7th Street and SW 9th Street in the vicinity of property located at 809 Virginia Avenue.  

(11-2020-1.10)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation was initiated by the City Council based on a request for acquisition of the Right-Of-Way (ROW) by the property owner at 809 Virginia Avenue. Neighboring property owners have indicated that
undesirable vehicle traffic passing through the alley unnecessarily or standing in the alley for illicit purposes is occurring on a frequent basis.

2. **Size of Site**: Approximately 11,280 square feet.

3. **Existing Zoning (site)**: “RX1” Mixed Use District and “N5” Neighborhood District.

4. **Existing Land Use (site)**: The affected area consists of public alley (ROW).

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

   - **North** – “N5”; Uses are one-household residential dwellings.
   - **South** – “N5”, Uses are one-household residential dwellings.
   - **East** – “N5”; Uses area one-household residential dwellings.
   - **West** – “RX1”; Use is a vacant drive-through restaurant.

6. **General Neighborhood/Area Land Uses**: The subject ROW is located within a block just east of the Southwest 9th Street mixed use corridor transitioning into a low density residential neighborhood.

7. **Applicable Recognized Neighborhood(s)**: The subject property is in the Indianola Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 24, 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 to the subject alley 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 Indianola Hills Neighborhood Association notices were mailed to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: There is a 36-inch diameter City storm sewer main and a 10-inch diameter City sanitary sewer main located underground in the north/south segment of alley. There are not any known public franchise utilities located in the north/south segment of alley. There are not any known City or public franchise utilities located in the east/west segment of alley. Any vacation of the alley ROWs must be made subject to reservation of easements for all public utilities in place.

2. Traffic/Access: Both requested alley segments are traversable by vehicle. There is not exclusive access from the alley segments to any adjoining parcel with the exception of the property located at 809 Virginia Avenue, which would maintain that access with acquiring the vacated ROW. All parcels have frontage and primary access onto an improved public street. Notified property owners or the requested vacation have indicated periodic use of the adjoining alley segments for convenient access and loading to rear yard areas. However, there is no adjoining property to either alley segment that requires alley access to required off-street parking areas.

Public Works staff for the City have indicated that if the north/south segment of alley is vacated, then the east/west segment of alley must be vacated in whole as to not leave a dead-end segment of public alley remaining for the City to maintain.

III. STAFF RECOMMENDATION

Staff recommends approval of City initiated vacation subject to reservation of easements for any existing utilities until such time that they are abandoned.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Abigail Chungath made a motion for approval of City initiated vacation subject to reservation of easements for any existing utilities until such time that they are abandoned.

THE VOTE: 13-0

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Item 2

City initiated request for vacation of the east/west alley between East Sheridan Avenue and Arthur Avenue from 1st Street to Oxford Street in the vicinity of 113 E. Sheridan Avenue.

(11-2020-1.11)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would allow use of the vacated area by Capital Landscaping, LLC.

2. Size of Site: Approximately 7,000 square feet for the addressed property.

3. Existing Zoning (site): “I1” Industrial District. The “I1” District is “intended for general industrial uses, warehousing, and transportation terminals.”

4. Existing Land Use (site): The affected area consists of public alley right-of-way.

5. Adjacent Land Use and Zoning:

   North – “I1”; Uses are industrial, office, and warehousing.

   South – “I1”, Uses are industrial, office, and warehousing.

   East – “N5”; Use is a single-household residential.

   West – “I1”; Uses are industrial, office, and warehousing.

6. General Neighborhood/Area Land Uses: The subject property is located the length of the block midway between East Sheridan Avenue and Arthur Avenue in an area consisting of a mix of industrial and residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in Union Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 24, 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 right-of-way.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Union Park Neighborhood
Association notices were mailed to Jack Daugherty, P.O. Box 16113, Des Moines, IA 50316.

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: Utility poles not associated with city services are located within the subject right-of-way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Traffic/Access: The requested alley right-of-way is not developed. The adjacent property owners have indicated that the proposed vacation would not negatively impact access to their parcels.

3. Outdoor Storage: Outdoor storage is an allowed associated use of industrial properties, so long as it is in accordance with Section 134-3.9.6 and Section 135-7.

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. Any outdoor storage associated with the industrial use of the property shall be located in the side or rear yard and screened from view of any adjacent lots or streets.

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:

Abigail Chungath 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. Any outdoor storage associated with the industrial use of the property shall be located in the side or rear yard and screened from view of any adjacent lots or streets.

THE VOTE: 13-0

Item 5

Request from Paws & Pints, LLC (developer) represented by Kyle Casey (officer) for review and approval of a Public Hearing Site Plan for property located at 6128 Willowmere Drive within an “EX” Mixed Use 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, applicable to a Workshop/Warehouse Building Type, in order to allow development of an indoor/outdoor dog park with Animal Service, Boarding; Animal Service, Grooming; and Eating and Drinking Places, Bar uses. The subject property is owned by Cornerstone Family Church.

(10-2020-7.129)

A) Allow on-site parking within the front yard areas along Southwest 63rd Street and Willowmere Drive per Sec. 135-2.9.3.A.8.

B) Allow the building to be built outside the 0-15 foot build-to zone on Willowmere Drive a non-primary frontage per Sec. 135-2.9.3.A.4.

C) Allow the ground story of the building to exceed the maximum 20-foot height proposed at 24’-6” per Sec. 135-2.9.3.B.12.

D) Allow a trash enclosure to be located outside of a rear yard or rear portion of an interior side yard per Sec. 135-2.1.7.B.2.

E) Allow a mechanical room within the required occupied space, first 20-feet from primary frontage located on Willowmere Drive per Sec. 135-2.9.3.C.15.

F) Allow a restroom accessory kiosk building to be located with service windows or principal entrance oriented on the non-front or corner façade per Sec. 135-2.22.2.B.5
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed facility would be first of a new business model in the Des Moines Metro area that would incorporate a Bar use with Animal Service uses involving a dog park and other pet services such as daycare and boarding.

2. Size of Site: 1,354,377 square feet (31.09 acres).

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

4. Existing Land Use (site): Former industrial site that has been cleared for redevelopment.

5. Adjacent Land Use and Zoning:
   - North – “EX”; Uses are business park office and industrial.
   - South – Airport Commerce Park West “Legacy PUD”; Uses are business park industrial.
   - East – “EX”; Uses are church and business park office and industrial.
   - West – “OS” (Agriculture/Open Space District, West Des Moines); Use is Brown’ Woods State Park.

6. General Neighborhood/Area Land Uses: The subject property is in a business park industrial area along the Southwest 63rd Street/Iowa Highway 28 corridor.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 24, 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 within 250 feet of the subject property.

   The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th St, Des Moines, IA 50321.

8. Relevant Zoning History: On May 27, 2020, the Zoning Board of Adjustment approved a Conditional Use to allow a bar on the property. The premise for the sale of beer, wine and liquor was limited to defined area within the property to ensure that required separation from the church property to the east was maintained. The Conditional Use was granted subject to the following:
A) Any business selling alcoholic liquor, wine, and/or beer shall operate in accordance with a liquor license obtained through the Office of the City Clerk as approved by the City Council.

B) Any “bar” selling alcoholic liquor, wine, and/or beer shall have the same or substantially similar business plan or model as presented to the Zoning Board of Adjustment by the current owner (Cornerstone Family Church of Des Moines, represented by Dan Berry) and the proposed tenant (Paws & Pints, represented by Kyle and Megan Casey).

C) Any “bar” or “other use with sales of alcohol for on-premise consumption”, shall be in accordance with a Site Plan approved by the City’s Permit & Development Center, which creates a legal description for the licensed premise, which ensures that the licensed premise is at least 150 feet from any lot that contains a school, park, child care, or religious assembly use.

D) Any sale of alcoholic liquor, wine, and/or beer for off-premise consumption shall be prohibited.

E) Any business selling alcoholic liquor, wine, and/or beer shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control.

F) Any business selling alcoholic liquor, wine, and/or beer shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

G) Any business selling alcoholic liquor, wine, and/or beer shall institute a strict no loitering policy, conspicuously post one or more “No Loitering” signs, and cooperate with police in addressing loitering on the premises.

H) Any business selling alcoholic liquor, wine, and/or beer shall not dispense alcoholic beverages from a drive-through window.

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

J) Any renovation of the building shall be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the Permit and Development Center.

K) If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use or the requirements contained in City Code Section 134-3.8.1, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Business Park.

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

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

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

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

  - Zoning restrictions at the time of the proposal;

  - The city’s comprehensive plan;

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

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

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

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

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

  - Consider the smart planning principles set forth in Iowa Code Chapter 18B.
Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

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

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

  - An evaluation of the character of the surrounding neighborhood, such as:
    - 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. General Requirements: The Site Plan was reviewed administratively for all standard requirements such as stormwater management, grading, tree removal and mitigation, landscaping, emergency access, and utilities. The subject Site Plan is subject to all administrative comments in this review. There have not been any major deficiencies identified in the review outside of the identified Design Alternatives.

2. Design Alternatives:

The developer has requested the following Design Alternatives for the submitted Site Plan and Elevations.

A) Allow on-site parking within the front yard areas along Southwest 63rd Street and Willowmere Drive per Sec. 135-2.9.3.A.8.

The site is constrained in terms of the design requirements by having public street frontage on three sides. Southwest 63rd Street and Park Avenue are determined to be Primary Frontages by letter of the Ordinance map. Willowmere Drive is considered a non-primary frontage. However, for purposes of the business model the developer has selected to use Willowmere Drive as their primary frontage and public entrance. Although there is another primary public entrance on the west side toward Southwest 63rd Street. Vehicle access to on-site parking is all proposed from drive entrances off Willowmere Drive. There is pedestrian and bicycle access proposed from the trail to be developed with the project along Southwest 63rd Street to the west primary entrance.

On-site parking is therefore proposed to be in front of the building on Willowmere Drive and Southwest 63rd Street, as well as additional parking and loading to the interior rear yard to the east of the building. The applicant indicates limited ability to provide all of the off-street parking to the east given the scale of the project and the need to distribute parking around the site to serve different functions of the business model.

B) Allow the building to be built outside the 0-15 foot build-to zone on Willowmere Drive a non-primary frontage per Sec. 135-2.9.3.A.4.

The developer has proposed placement of the building toward Willowmere Drive to accommodate the outdoor spaces for pets and patrons to the south towards Park Avenue. Because the developer was challenged with distribution of on-site parking, the portion between the building and the public street has prevented meeting this standard. Rearranging the parking spaces interior to the site compromises the need
for the outdoor areas to interface with the functions of the building interior to the site.

C) Allow the ground story of the building to exceed the maximum 20-foot height proposed at 24' - 6" per Sec. 135-2.9.3.B.12.

Portions of the building are two-story in height. However, a significant portion of the interior has a clear story for the function of the space which causes the need for a Design Alternative to exceed this height. In the Ordinance anything over 10% the 20-foot maximum triggers a Type 2 Design Alternative. Again in this instance, the functionality of a unique business model has modified the scale of the interior space causing the need for a Design Alternative. This would not negatively affect the overall massing of a building that has two stories.

D) Allow a trash enclosure to be located outside of a rear yard or rear portion of an interior side yard per Sec. 135-2.1.7.B.2.

There will be trash enclosures both east and west of the proposed building. The trash enclosure in question projects slightly west of the building frontage along Southwest 63rd Street. However, would be integrated into the kiosk proposed for outdoor service to patrons in the outside patio area for the bar to the southwest of the building. In general, the alignment with the mass of the building is preserved by the enclosure/kiosk anchoring the outside space to the southwest.

E) Allow a mechanical room within the required occupied space, first 20-feet from primary frontage located on Willowmere Drive per Sec. 135-2.9.3.C.15.

Due to the functionality of the space arrangement within the building, a small portion of mechanical space is proposed to be located to the northeast corner of the building. However, a majority of the front of the building along Willowmere Drive is proposed as occupied space. Having occupied space on three building frontages is a challenge for location of necessary mechanical spaces.

F) Allow a restroom accessory kiosk building to be located with service windows or principal entrance oriented on the non-front or corner façade per Sec. 135-2.22.2.B.5.

The subject kiosk building is located to serve the function of the outdoor patio space to the southwest of the building. Due to the need to secure and fence the pet areas and patron areas, the kiosks are oriented to serve the space interior to the site and not towards the public street side of the space.

3. **Staff Rationale:** Staff believes that the developer has proposed a quality development to serve a unique business model. The building is proposed with a modern architectural design to serve the functionality of the business. There are unique elements including the need for large areas of open space for the various pet exercise areas and other large areas devoted to outside spaces for pet owners and bar patrons alike. **Staff further believes that allowing the proposed Design**
Alternatives will allow this unique business model to fit into a business park setting and still retain the elements and intent of the Ordinance for design.

Staff has worked closely with the developer in the review to minimize the need for Design Alternatives to allow a unique project for the community. Many aspects of the proposed design were modified from their original concept to meet the intent of the Ordinance to provide the Site Plan that is under consideration by the Commission.

III. STAFF RECOMMENDATION

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

SUMMARY OF DISCUSSION

Jann Freed asked if any members of the public or the Commission wanted to speak regarding Item #5. None requested to speak.

Will Page made a motion to move item #5 to the consent agenda. Motion Carried 12-0-1 (Greg Wattier abstained from the vote).

COMMISSION ACTION:

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

THE VOTE: 12-0-1 (Greg Wattier abstained from the vote).

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 3

Request to Mundo Pequenito, LLC (owner) represented by Guadalupe Castillo (officer) for the following regarding the property at 1922 Southwest 1st 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 Medium Density Residential to Community Mixed Use. (21-2020-4.18)
C) Rezone property from “NX2” Neighborhood Mix District to “RX1” Mixed Use District to allow expansion of the existing non-conforming Day Care use.

(STAFF REPORT TO THE PLANNING COMMISSION)

I. GENERAL INFORMATION

1. Purpose of Request: The existing day care is a non-conforming use in the “NX2” Neighborhood Mix District. The proposed rezoning to “RX1” Mixed Use District would allow it to renovate the existing building, reconstruct the existing off-street parking lot, and construct an accessory building. Any future site improvements must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.

2. Size of Site: 17,806 square feet (0.41 acre).


4. Existing Land Use (site): The site contains an existing day care use with an outdoor playground and surface parking lot.

5. Adjacent Land Use and Zoning:
   North – “DXR”; Uses are Columbus Avenue and a one-household dwelling.
   South – “N5”; Uses are Indianola Road and a one-household dwelling.
   East – “P2”; Uses are Southwest 1st Street and Saint Anthony’s Church & School.
   West – “NX2”; Use is a one-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is in an area known as the Two Rivers District, where uses transition from commercial and multiple-household dwellings to one-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the McKinley School/Columbus Park Neighborhood and within 250 feet of the Indianola Hills Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 14, 2020 (20 days prior to the public hearing) and on August 24, 2020 (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 McKinley School/Columbus Park Neighborhood mailings were sent to Jim Post, 224 Southeast Livingston Avenue, Des Moines, IA 50315. The Indianola Hills Neighborhood mailings were
sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

The applicant is responsible for reaching out to the surrounding property owners within 250 feet of the site through a written communication soliciting questions and input. 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: N/A.


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 “Medium Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

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

The applicant is proposing to rezone the property from “NX2” Neighborhood Mix to “RX1” Mixed-Use District. The proposed “RX1” District requires the “Community Mixed Use” future land use map designation. Plan DSM describes this designation as follows:

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

   The Zoning Ordinance states that “RX1 is intended for transitional areas between MX districts and N districts, providing for residential and office building at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.” Building types allowed in this district include the Commercial Cottage, General
Building, Principal-Use Parking Structure Civic Building, Flat Building and Row Building.

The subject site is located along Indianola Road, which is a significant transportation corridor that contains a mix of uses. The proposed land use map designation and zoning district are appropriate to the character of the area and align with the goals of Plan DSM.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.

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

4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “RX1” District be found not in conformance with the existing PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Medium Density Residential.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Medium Density Residential to Community Mixed Use.

Part C) Staff recommends approval of rezoning the subject property from “NX2” Neighborhood Mix District to “RX1” Mixed-Use District.

### SUMMARY OF DISCUSSION

Erik Lundy advised that the applicant has requested a continuance to the September 17, 2020 meeting to allow time for appropriate neighborhood outreach.

### COMMISSION ACTION:

Emily Webb made a motion to continue item #3 to the September 17, 2020 Plan and Zoning meeting.

**THE VOTE:**  13-0

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Item 4

Request from Brown Dog Realty, LLC (owner) represented by David Kriens (officer) to rezone property at 2110 Wakonda View Drive.

A) Determination as to whether the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow.

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Community Mixed Use to Industrial.

(21-2020-4.19)

C) Rezone property from “MX2” Mixed Use District to “I1” Industrial District, to allow expansion of an existing plumbing and mechanical shop site improvements.

(ZON2020-00100)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow the existing plumbing and mechanical shop business to do site improvements as the business is not a permitted use in the “MX2” District. The applicant is requesting “I1” District zoning to legitimize outdoor storage that has been occurring at the property. The outdoor storage component of the business does not have legal non-conforming rights and the applicant has been issued a violation notice. The property was zoned “C-2” District under the old zoning code, which did not allow outdoor storage. Additional zoning history information can be found in section I, subparagraph 8 of this report.

2. Size of Site: 106.5 feet by 214 feet (22,865 square feet or 0.525 acres).

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

4. Existing Land Use (site): The site contains a plumbing and mechanical shop business.

5. Adjacent Land Use and Zoning:

   North – “MX3”; Use is a vacant convenience store.

   South – “MX2”; Use a bowling alley business.

   East – “MX2”; Uses are two restaurant businesses.

   West – “N3a”; Uses vacant lots owned in common with the bowling alley property to the south and one household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located on the south side of Wakonda View Drive to the west of the intersection with Fleur Drive.
The surrounding neighborhood consists of one household dwellings with commercial uses clustered along the Fleur Drive corridor.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 14, 2020 (20 days prior to the public hearing) and on August 24, 2020 (10 days prior to the public hearing) to the Southwestern Hills 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 Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. **Relevant Zoning History:** On March 11, 2019, the City Council amended the Future Land Use Map designation for the subject property from Low-Density Residential to Community Mixed Use and rezoned the property from “R1-80” District to a limited “C-2” District (Ordinance Number 15,755) subject to the following conditions:

   a. The Property shall not be used for any of the following prohibited uses: adult entertainment business; businesses selling liquor, wine, or beer; off-premises advertising signs; taverns and nightclubs; and vehicle display lots.
   
   b. Replacement of the existing drive access as part of any site expansion shall require reduction of the width to a maximum of 36 feet in width with 10-20 foot radii.
   
   c. Provision of a five-foot wide public sidewalk along Wakonda View Drive as part of any site expansion.
   
   d. Compliance with all landscaping requirements as applicable to “C-2” Districts as part of any site expansion. In addition, a bufferyard using “C-2” District standards shall be provided along the west side of any paved area as part of any site expansion;

Before this rezoning the applicant had submitted a site plan. The review process was not completed by the applicant and the site plan application expired.

On July 19, 2019, a zoning violation notice was sent to the applicant for illegal expansion of a gravel area and outdoor storage of material. The site was inspected again on May 13, 2020, and illegal storage was found to be occurring. The applicant was contacted. They were advised to attend a preapplication meeting as the new Chapter 134 and Chapter 135 of the City Code apply. They attended as
pre-application meeting on July 21, 2020.

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

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to 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 “Community Mixed Use” on the Future Land Use Map. Plan DSM describes this designation as follows:

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

   The applicant is proposing to rezone the property from “MX2” Mixed Use District to “I1” Industrial District. The Zoning Ordinance states that “I1 is intended for general industrial uses, warehousing, and transportation terminals.” Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

   The “I1” District can be found in conformance with the “Industrial” Future Land Use Map designation. Plan DSM describes this designation as follows:

   **Industrial:** 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 subject property adjoins a residential neighborhood and is located on a commercial corridor. None of the properties in the surrounding area are zoned for industrial use or designated as industrial on the Future Land Use Map. The level of development intensity caused by industrial uses should be buffered from other uses and located in areas that included multiple industrial uses. This allows industrial traffic to be routed to transportation networks that can support it and minimizes intermingling with resident and commuter traffic. Additionally, large areas
designated for industrial uses allows for appropriate amounts of buffering to be provided from less intense uses.

Staff does not support the proposed Future Land Use Plan amendment or the proposed rezoning. The subject use is allowed by the “MX3” District so long as all storage of material and equipment occurs within a building. The “MX3” District can be found in conformance with the existing Community Mixed Use designation. Several of the properties to the north of the site are zoned “MX3” District.

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, Commercial Center, Civic Building and Principal-Use Parking Structure.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.

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

4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

### 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 designation of “Community Mixed Use.”

Part B) Staff recommends denial of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial.

Part C) Staff recommends denial of the request to rezone the subject property from “MX2” Mixed Use District to “I1” Industrial District.

**Staff recommends the following alternative:**

Alternate Part A) Staff recommends that the “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use.”

Alternate Part B) Staff recommends approval of rezoning the subject property from “MX2” Mixed Use District to “MX3” Mixed Use District.
SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Dave Kriens, 2110 Wakonda View Dr. Stated anything that’s stored outside will be covered with an awning and 2 sides with visibility from the South facing North only. Some materials that he does store require heavy equipment to move such as concrete pipes and sewer pipes. He will also install a 6-foot cedar privacy fence along the West, South and East side of the building that will connect to the metal warehouse. He also has some vehicles and trailers that will be parked outside and that is why he will provide the privacy fence. He has informed all surrounding neighbors and they support what he has proposed. He believes it is unfair this cannot be rezoned to I1 if he is willing to make accommodations.

Rocky Sposato asked Mr. Kriens how long he has been at this location?

Dave Kriens stated 16 years.

Abigail Chungath asked what portion the outdoor storage will take up on the site?

Dave Kriens stated 12-foot from the South side of the building and 20-foot long.

Carolyn Jension asked if all neighbors are in support of this proposal?

Dave Kriens stated yes, everyone is in favor.

Johnny Alcivar asked what material he will use for the awning and will it be fully covered?

Dave Kriens stated it will be fully covered, the only visible portion of the storage will be from the South facing North. He will be using a steel rack not exceeding 6-foot in height and the roof being no more than 10-foot in height.

CHAIRPERSON OPENED THE PUBLIC HEARING

None requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if MX3 would disallow outdoor storage?

Jason Van Essen stated yes, it would allow this type of business but not outdoor storage.

Will Page asked what else the I1 zoning would include?

Jason Van Essen stated it would include everything but the heavy industrial uses.
Will Page asked if condition could be made that would hinder other uses in the future?

Jason Van Essen stated if the commission is worried about what they would be opening the site to for future use, staff could come up with conditions that would be specific to the applicant’s operation. He would suggest a continuation to the September 17 meeting to allow staff time to work on the list of conditions.

Greg Jones asked why they couldn’t rezone to MX3 and allow a 12x20 area for storage immediately behind the building?

Jason Van Essen stated that would be another option but he isn’t sure if that is something staff could use a Type 2 relief for or the applicant would need to seek a use variance from Zoning Board of Adjustment.

Mike Ludwig stated that would be a use variance as outdoor storage is not allowed in MX3. One option would be to rezone to limited I1 zoning district and restrict the uses to those allowed with MX3 zoning, plus outdoor storage as shown on the site plan. It would be beneficial to continue this item to allow staff time to write up those conditions.

**COMMISSION ACTION:**

Greg Wattier made a motion to continue item #4 to the September 17, 2020 meeting.

**THE VOTE:** 13-0

Committee and Director’s Reports: None.

Meeting adjourned at 6:48pm