The September 17, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 932 5251 2882.

P&Z PARTICIPANTS: Kayla Berkson, Johnny Alcivar, Emily Webb, Abigail Chungath, Lisa Howard, Jann Freed, Dory Briles, Carolyn Jenison, Steve Wallace, Greg Jones and Will Page

P&Z ABSENT: Rocky Sposato, Francis Boggus and Greg Wattier

STAFF PARTICIPANTS: Mike Ludwig, Tyler Hall, Glory Parks, Bert Drost, Jason Van Essen, Katherine Dostart, Erik Lundy, Judy Parks-Kruse, and Dolores Brisen, Minhas and Larson.

Carolyn Jenison made a motion to approve the September 3, 2020 Plan and Zoning Commission meeting minutes. Motion carried 10-0-1 (Dory Briles abstained as she was not present for the September 3 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. None were present or requested to speak.

Erik Lundy stated item #10 can be moved to consent if there is no one present to speak in opposition. None were present or requested to speak.

Carolyn Jenison made a motion to move item #10 to the consent agenda. Motion Carried 11-0

Emily Webb made a motion to approve Consent Agenda Items #1, #2, #3, #4, #5, #6 and #10. Motion carried 11-0.

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Plymouth Church of Des Moines (owner) represented by Emily Tripp (officer) for a 4th Amendment to the Plymouth Congregational Church PUD Conceptual Plan for property located in the vicinity of 4126 Ingersoll Avenue, to allow roof-mounted solar panels on the church building. (ZON2020-00107)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed PUD Conceptual Plan amendment would allow roof-mounted solar panels to be installed on the south facing portion of the roof on the southernmost wing of the church building.

2. Size of Site: 5.11 acres.
3. **Existing Zoning (site):** Plymouth Congregational Church PUD District.

4. **Existing Land Use (site):** The subject property within the PUD contains the Plymouth Congregational Church campus. The balance of the PUD contains two single-household dwellings, and one duplex dwelling and a multiple-household building.

5. **Adjacent Land Use and Zoning:**
   - **East** - “PUD”; Uses are residential.
   - **West** - “NX1”; Uses are residential and office.
   - **North** - “NX3”; Use is a multiple-household building.
   - **South** - “P2”; Uses are the St. Augustin’s Church campus.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the southeast corner of the Ingersoll Avenue and 42nd Street intersection. The area contains a mix of residential, institutional and office uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the North of Grand Neighborhood and within 250 feet of the Ingersoll Park Neighborhood and Salisbury Oaks Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 28, 2020 (20 days prior to the hearing) and September 4, 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 requested rezoning and to the neighborhood contracts for the three neighborhood associations. A Final Agenda for the meetings were mailed to all the recognized neighborhood associations on September 11, 2020.

   The North of Grand Neighborhood mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312. The Ingersoll Park Neighborhood mailings were sent to Ann Schmid, 4244 Harwood Drive, Des Moines, IA 50312. The Salisbury Oaks Neighborhood mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312.

8. **Relevant Zoning History:** The Plymouth Congregational Church “PUD” was originally approved by the City Council on August 20, 2001, by Roll Call Number 01-2583 and Ordinance Number 13,981. The second amendment was approved by the City Council on October 24, 2016, by Roll Call Number 16-1846 and Ordinance Number 15,522. The third amendment was approved by the City Council on October 9, 2017, by Roll Call Number 17-1783.

9. **PlanDSM Land Use Plan Designation:** The western half of the Plymouth Congregational Church “PUD” is designated as “Medium Density Residential” on the Future Land Use Map. This includes the proposed project area. The eastern
half of the PUD is designated as “Community Mixed-Use” on the Future Land Use Map.

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.

The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PUD Standards**: The existing PUD Conceptual Plan does not provide guidance on, or allow the installation of solar panels. As a result, the proposed Conceptual Plan amendment is necessary for the project to move forward. Staff believes that the standards for building mounted solar systems found in the Planning and Design Ordinance should be used as the basis for review of this project. The following language is from Section 135-2.22.4E of the code.

   **E. Solar - Building-Mounted.** A solar energy system that is affixed to or an integral part of a principal or accessory building, including but not limited to photo-voltaic or hot water solar energy systems which are contained within roofing materials, windows, skylights, and awnings.

   1. **Quantity.** The total square footage may not exceed the total area of roof surface of the structure to which the system is attached.

   2. **Flush Mounted System.** The bottom of the system should be four Inches or less from the roof surface whenever possible.

   3. **Height**

      a. Systems shall not extend beyond three feet parallel to the roof surface of a pitched roof.

      b. Systems shall not extend beyond six feet parallel to the roof surface of a flat roof.
c. Systems shall not extend more than five feet above the highest peak of a pitched roof.

4. Location on Structure. Allowed on the following:
   a. Any roof face.
   b. Side and rear building facades.
   c. Roof of any parking canopy.

5. Projection. The system may project off a roof edge or building facade as follows:
   a. May project laterally from a building façade or roof edge a maximum of seven feet.
   b. May project into an interior side or interior rear setback; but shall be no closer than five feet to the interior side or interior rear property line.

6. Signs, Signage or writing of any kind is not permitted on any portion of system, other than required manufacturer plates, installer plate, and safety labeling.

The submitted design information appears to comply with these standards. Staff recommends that a note be added to the Conceptual Plan that references these standards. This will assist in reviewing the project as it moves forward.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment to the Plymouth Congregational Church PUD Conceptual Plan subject to the provision of a note that states that any building-mounted solar panel shall comply with Section 135-2.22.4E of the Planning and Design Ordinance to the satisfaction of 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 proposed amendment to the Plymouth Congregational Church PUD Conceptual Plan subject to the provision of a note that states that any building-mounted solar panel shall comply with Section 135-2.22.4E of the Planning and Design Ordinance to the satisfaction of the Planning Administrator.

THE VOTE: 11-0
Item 2

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 September 3, 2020 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 September 3, 2020 hearing for this specific item were mailed on August 14, 2020 (20 days prior to the 9/3 public hearing) and on August 24, 2020 (10 days prior to the 9/3 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. A Final Agenda for the September 17, 2020 public hearing was mailed on September 11, 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 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. **Application Update:** During the September 3, 2020, Plan and Zoning Commission meeting the applicant discussed the limited nature of their outdoor storage needs and plans to screen materials. It was noted that the subject use is allowed in the “MX3” District if all equipment and materials are stored within a building and that the properties to the north are zoned MX3.

   The Commission expressed interest in allowing the business model described by the applicant, but was concerned that unconditional I1 zoning would allow a future owner to use the property for an industrial use that would be detrimental to the neighborhood. The Commission continued the item and requested that staff work with the applicant to develop a list of zoning conditions that would allow the operations as described, but would prohibit other industrial uses.

   Staff provided the applicant with an emailed summary of our understanding of the applicant’s outdoor storage needs. In response, the applicant had their consultant update their rezoning site sketch to generally show where storage would occur and how it would be screened. Staff recommends approval of the rezoning subject to the conditions listed in Section III of this report.

   The only industrial use that the recommended zoning conditions would allow is a plumbing and mechanical shop with limited outdoor storage. All other permitted uses would be restricted to those uses that the “I1” District allows in common with the “MX3” District. Given this fact, staff believes that the proposed Limited “I1” District can be found in conformance the “Community Mixed Use” future land use map designation and that Plan DSM should not be amended.

2. **PlanDSM Creating Our Tomorrow:** Plan DSM describes the “Community Mixed Use” future land use map 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.

Plan DSM describes the “Industrial” future land use map 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 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 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.

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

4. **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.

5. **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 a Limited “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use.”

Part B) The original request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial is moot as the proposed Limited “I1” District is in conformance with the “Community Mixed Use” designation.
Part C) Staff recommends approval of rezoning the subject property from “MX2” Mixed Use District to a Limited “I1” Industrial District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX3” District, and a plumbing and mechanical shop use.

2. Outdoor storage of material and equipment is prohibited except as an accessory use to a plumbing and mechanical shop.

3. Any storage of material permitted by condition #2 shall be located directly south of the building in a 12-foot by 30-foot area with screen walls on three sides as identified on an approved Site Plan. Material in this area shall be stacked no higher than 6-feet above grade.

4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property.

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 a Limited “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use.”, Part B) The original request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Community Mixed Use to Industrial is moot as the proposed Limited “I1” District is in conformance with the “Community Mixed Use” designation and Part C) APPROVAL of rezoning the subject property from “MX2” Mixed Use District to a Limited “I1” Industrial District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX3” District, and a plumbing and mechanical shop use.

2. Outdoor storage of material and equipment is prohibited except as an accessory use to a plumbing and mechanical shop.

3. Any storage of material permitted by condition #2 shall be located directly south of the building in a 12-foot by 30-foot area with screen walls on three sides as identified on an approved Site Plan. Material in this area shall be stacked no higher than 6-feet above grade.

4. Any storage of equipment permitted by condition #2 shall be limited to trailers stored within the south 60 feet of the property.

THE VOTE: 11-0
Item 3

Request from Adam Hawxby (owner), for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 2939 East Douglas Avenue, in order to allow expansion of an attached garage on a House Type A in an “N1b” Neighborhood District where the west interior side yard width of 6-feet 8-inches. This would be 3-feet 4-inches (33.3%) less than the minimum required 10 feet side yard on one side required per Section 135-2.13.3.A.5. The proposed total side yard width is 44-feet 9-inches.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to expand an existing attached garage on the west side of the existing, one-story house. The expansion would be constructed with like materials and roof profile to match the existing house.

2. Size of Site: 110-foot by 300-foot parcel (33,000 square feet).

3. Existing Zoning (site): “N1b” Neighborhood District.

4. Existing Land Use (site): 1-story, one-household dwelling with attached 1-story garage.

5. Adjacent Land Use and Zoning:

   North – “N1b”; Uses are one-household dwellings.
   South – “N1b”; Uses are one-household dwellings.
   East – “N1b”; Uses are one-household dwellings.
   West – “N1b”; Uses are one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is in a primarily residential section of East Douglas Avenue that consists of one household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Douglas Acres Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (13 days prior to the hearing) to the affected neighborhood association and to the primary titleholder on file with the
Polk County Assessor for each property within 250 feet of the requested design alternative.

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 Douglas Acres Neighborhood Association mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317.

8. **Relevant Zoning History:** N/A.

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

10. **Applicable Regulations:** Section 135-2.13.3.A.5 states that for House Type A the minimum side yard on one side shall be 10 feet with a total side yard of 25 feet on both sides.

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. Staff Analysis: Staff has reviewed the proposed expansion relative to the character of the existing dwelling and the surrounding neighborhood area. The proposed expansion will reduce the west, interior side yard setback to 6 feet 8 inches, which is 3 feet 4 inches (33%) less than the required 10 feet on any one side yard. The sum of the side yard setbacks will be 44 feet 9 inches, well over the required 25 feet. The applicant has indicated the presence of a foundation at the 6-foot 8-inch mark west of the existing garage, and would like to utilize this existing foundation for the expansion. The subject lot and the adjoining lot to the west are fairly large in size. The principal structure on the adjoining lot is currently located 60 feet from the west facade of the existing garage on the subject lot.

The reduction to the west side yard setback would not create any detrimental impact on neighboring properties. The expansion would be in character with the principal dwelling, and constructed with like material and roof profile. The overall building design meets the intent of Chapter 135.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to reduce the west, interior side yard setback by 3 feet 4 inches. Any future modification to the facade, building form or materials must meet all applicable requirements of the Zoning Code.
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 Alternative to reduce the west, interior side yard setback by 3 feet 4 inches. Any future modification to the façade, building form or materials must meet all applicable requirements of the Zoning Code.

THE VOTE: 11-0

Item 4

Request from Rally Cap, LLC (owner) represented by Ryan Francois (officer), for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 1115 35th Street, in order to allow construction to be completed of a 16-foot by 22-foot detached garage within the rear yard area for a House Type D in an “N5” Neighborhood District, where the garage would be within 3 feet of both the south and east property lines. This would be 2 feet (40%) less than the minimum required 5 feet of setback from side and rear property lines per Section 135-2.22.1.D.3  

(BLD2020-02180)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has started construction on a 16-foot by 22-foot (352 square foot) detached garage in the rear yard in the southeast corner of the property. The proposed siding would be smooth sided lap siding and architectural asphalt shingles to match the existing dwelling. The garage requires Type 2 Design Alternative relief to allow its location within 3 feet of the south and east property lines.

2. Size of Site: 50-foot by 105-foot parcel (5,250 square feet).

3. Existing Zoning (site): “N5” Neighborhood District.

4. Existing Land Use (site): 1.5-story one household dwelling.
5. **Adjacent Land Use and Zoning:**

- **North** – “N5”; Uses are one-household dwellings.
- **South** – “N5”; Uses are one-household dwellings.
- **East** – “N5”; Uses are one-household dwellings.
- **West** – “P2”; Use is religious assembly.

6. **General Neighborhood/Area Land Uses:** The subject property is in a primarily residential area between University Avenue and Cottage Grove Avenue that consists of one household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (13 days prior to the hearing) to the affected neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

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 Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

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

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

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

    - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;
    - Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

The applicant’s request to reduce the required setback by 40% exceeds the amount of relief that could be granted as a Type 1 Design Alternative pursuant to Section 135-9.2.3.A.3.a and 135-9.2.3.B.1.

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
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. Accessory Structure Standards and Setbacks: Section 135-2.22.C provides the definition and standards for outbuildings and detached garages.

   C. Outbuilding and Detached Garage. A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is
required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds.

1. **Side and Rear Setback.** Minimum side and rear setback of an outbuilding shall be five feet.

2. **Alley.** Where a garage is accessed off an alley with pavement narrower than 20 feet, the garage shall be set back from the alley lot line to allow 24 feet from the opposite edge of alley pavement to the garage door.

3. **Height.** The maximum height of the outbuilding may be no taller than one-half story less than the principal building; however, in the event that the principal building is one story in height, the outbuilding may not exceed the height of the principal building.

4. **Residential Districts.** The lot coverage of all accessory structures, including an outbuilding, shall not exceed 576 square feet or 25% of the rear yard, whichever is greater, on a lot zoned Neighborhood (N) or Neighborhood Mix (NX).

5. **Character.** The outbuilding shall be compatible in color and character with the primary structure on the lot.

6. **Accessory Household Unit.** If a permitted AHU is contained within an outbuilding, then the requirements of subsections 4, 5, and 8 of section 135-2.22.2.F of this article shall also apply.

2. **Additional Information:** The applicant has begun construction on a new accessory structure in the southeast corner of the property. The garage measures 16 feet by 22 feet. The garage elevations indicate the use of lap siding and asphalt shingles similar to the materials on the principle building. The garage is located 3 feet from both the south and the east property lines, or 2 feet less than the allowed 5-foot setback per Section 135-2.22.C.1 and 0.5-foot less than what could be allowed by a Type 1 Design Alternative. The applicant has indicated fire-rated walls have been constructed on the south and east facades.

The applicant has indicated that the setbacks are necessary in order to align with the existing paved driveway. In this instance, strict compliance with the 5-foot setback requirements would not allow sufficient space for a functional garage. The impacts of a garage within 3 feet of the lot lines would be minimal. Furthermore, such would be in character with the surrounding properties. Staff believes the applicant has proposed an accessory structure that would mitigate the decreased setbacks as requested, so long as any construction of an accessory structure is in substantial conformance with the submitted site plan and elevations including building and roofing materials.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the request, subject to the following conditions:

1. Any construction shall comply with all administrative review comments.
2. Construction of any garage shall be in substantial conformance with the submitted site plan and elevations including building and roofing materials.

3. Any addition shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the 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 request, subject to the following conditions:

1. Any construction shall comply with all administrative review comments.

2. Construction of any garage shall be in substantial conformance with the submitted site plan and elevations including building and roofing materials.

3. Any addition shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the Permit and Development Center.

THE VOTE: 11-0

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Item 5

Request from Richard S. Miller (owner), for review and approval of a Public Hearing Site Plan “Electric Pump” for a Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 4260 E 14th Street, to allow construction of a 7,200-square foot Workshop/Warehouse Type Building in an “I1” Industrial District with on-site parking within the front yard area when only permitted in the side or rear yard area per Section 135-2.9.3.A.8.

(10-2020-7.107)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow development of a 7,200-square foot warehouse building in an “I1” Industrial District within an off-street parking lot containing 12 parking spaces.

2. Size of Site: 2.06 acres.
3. **Existing Zoning (site):** “I1” Industrial District.

4. **Existing Land Use (site):** The subject property contains an existing 19,3054-square foot industrial building occupied by Electric Pump, as well as a surface parking lot to the east (front) of the building. The southern portion of the property is open space.

5. **Adjacent Land Use and Zoning:**
   - **North** – “LI” (Polk County), Use is an office and warehouse (Nehring Construction).
   - **South** – “NM”, Use is a mobile home community (Pine Grove).
   - **East** – “LI” (Polk County), Use is an office and warehouse (Link Associates).
   - **West** – “N3a”, Use is a one-household dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located along East 14th Street in an area that transitions from residential uses to the south and west, to industrial uses to the north and east.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (13 days prior to the 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 requested rezoning.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Highland Park Neighborhood mailings were sent to Ashley Kennebeck, 388 17th Street, Des Moines, IA 50316.

8. **Relevant Zoning History:** On October 16, 2019, the City Council adopted Ordinance No. 15,818 repealing the previous City Zoning Map and adopting a new City Zoning map. At that time, the subject property was designated as “I1” Industrial District.

9. **PlanDSM Future Land Use Plan Designation:** Industrial.

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
thoroughout the city;

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  - An evaluation of the character of the surrounding neighborhood, such as:
    
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  
  - For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  
  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  
  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  
  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
  
  - Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
  
  - Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL INFORMATION

1. Type 2 Design Alternative Requested: Surface parking within the front yard where not allowed: Section 135-2.9.3.A of the Planning and Design Ordinance
applicable to Workshop/Warehouse buildings within the “I1” District allows for surface parking and loading to occur within rear and interior side yards only. The proposed Site Plan includes an off-street parking lot located within the front yard area along East 14th Street.

2. **Staff Rationale:** Staff recommends approval of the requested Type 2 Design Alternative to allow construction of a 7,200-square foot Workshop/Warehouse Type Building in an “I1” Industrial District with on-site parking within the east (front) yard area. The proposed parking lot would be setback 10 feet from the front lot line along East 14th Street, which would allow for adequate buffering and for the required landscaping materials. Given the placement and configuration of the existing building and parking lot on the northern portion of the property, it is reasonable for the proposed parking lot to be in front of the proposed building so that the internal access drive can line up with the parking lot to the north. Granting this design alternatives would not have a substantial or undue adverse effect upon adjacent property or be detrimental to the character of the surrounding area or to the public health, safety and general welfare. The impact of the parking lot in this location would be minimal so long as the building is constructed in general compliance with the building elevations submitted on August 25, 2020. These elevations provide full-dimensional brick and architectural metal panels, as well as significant window openings. Furthermore, all overhead doors have been placed on the side and rear façades of the structure.

### III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to allow construction of a 7,200-square foot Workshop/Warehouse Type Building in an “I1” Industrial District with on-site parking within the front yard area, subject to the following conditions:

1. Compliance with all administrative review comments from the City’s Permit & Development Center.

2. The building shall be constructed in general compliance with the building elevations submitted on August 25, 2020.

### 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 Alternative to allow construction of a 7,200-square foot Workshop/Warehouse Type Building in an “I1” Industrial District with on-site parking within the front yard area, subject to the following conditions:
1. Compliance with all administrative review comments from the City’s Permit & Development Center.

2. The building shall be constructed in general compliance with the building elevations submitted on August 25, 2020.

**THE VOTE: 11-0**

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**Item 6**

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. (ZON2020-00099)

**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).

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

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 for the September 3, 2020 meeting on August 14, 2020 and by mailing of the Final Agendas for the September 3, 2020 meeting on August 28, 2020 and for the September 17, 2020 meeting on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 14, 2020 (20 days prior to the public hearing on September 3, 2020) and on August 24, 2020 (10 days prior to the public hearing held on September 3, 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.

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 mailed the required letter on September 4, 2020. They must 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.

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The 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

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 “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) APPROVAL of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Medium Density Residential to Community Mixed Use and Part C) APPROVAL of rezoning the subject property from “NX2” Neighborhood Mix District to “RX1” Mixed-Use District.

THE VOTE: 11-0

Item 10

Request from Karl Bolser (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 1417 44th Street, in order to allow construction of a 21.5-foot by 21.5-foot detached garage within the rear yard area for a House Type D in an “N5” Neighborhood District, where the garage would be within 1 foot of the north side lot line and within 2.75 feet of the east rear property line. This would be 4 feet (80%) less from the north and 2.25 feet (45%) less from the east than the minimum required 5 feet of setback from side and rear property lines per Section 135-2.22.1.D.3. (BLD2020-02288)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new 21.5-foot by 21.5-foot (462.25 square feet) detached garage within the rear yard area that would be within 1 foot of the north side lot line and within 2.75 feet of the east rear property line. The proposed garage would replace a 20-foot by 18-foot (360 square feet) garage with similar setbacks.

2. Size of Site: 50-foot by 150-foot parcel (7,500 square feet).

3. Existing Zoning (site): “N5” Neighborhood District.

4. Existing Land Use (site): 1.5-story one household dwelling with a detached garage.

5. Adjacent Land Use and Zoning:
   - North – “N5”; Uses are one-household dwellings.
   - South – “N5”; Uses are one-household dwellings.
   - East – “N5”; Uses are one-household dwellings.
   - West – “N5”; Uses are one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is in a low-density residential neighborhood.

7. Applicable Recognized Neighborhood(s): The subject property is within an area shared between Beaverdale Neighborhood and Waveland Park Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (10 days prior to the hearing) to the affected neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

   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 Beaverdale Neighborhood Association mailings were sent to Marcus Coenen, PO Box 30175, Des Moines, IA 50310. The Waveland Park Neighborhood Association mailings were sent to Mark Johnson, 1089 44th Street, Des Moines, IA 50310.

8. Relevant Zoning History: None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

10. **Applicable Regulations:** Section 135-2.22.1.D.3.b requires any accessory building within a rear yard area to be setback at least 5 feet from any side or rear lot line.

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. Accessory Structure Standards and Setbacks: Section 135-2.22.C provides the definition and standards for outbuildings and detached garages.

   C. Outbuilding and Detached Garage. A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds

   1. Side and Rear Setback. Minimum side and rear setback of an outbuilding shall be five feet.

   2. Alley. Where a garage is accessed off an alley with pavement narrower than 20 feet, the garage shall be set back from the alley lot line to allow 24 feet from the opposite edge of alley pavement to the garage door.

   3. Height. The maximum height of the outbuilding may be no taller than one-half story less than the principal building; however, in the event that the principal building is one story in height, the outbuilding may not exceed the height of the principal building.

   4. Residential Districts. The lot coverage of all accessory structures, including an outbuilding, shall not exceed 576 square feet or 25% of the rear yard, whichever is greater, on a lot zoned Neighborhood (N) or Neighborhood Mix (NX).

   5. Character. The outbuilding shall be compatible in color and character with the primary structure on the lot.

   6. Accessory Household Unit. If a permitted AHU is contained within an outbuilding, then the requirements of subsections 4, 5, and 8 of section 135-2.22.2.F of this article shall also apply.

2. Staff Rationale: The proposed garage would be within 1 foot of the north side lot line and within 2.75 feet of the east rear property line. The applicant has indicated that the proposed setbacks are necessary to align with the existing paved driveway and given the placement of patio in the rear yard that is surrounded by a fence.
In this instance, strict compliance with the 5-foot setback requirements would not allow sufficient space for a functional garage. However, Staff believes that the it is necessary to provide at least 2 feet of setback between a garage and any property line to ensure that there is adequate space to paint and maintain the garage, as well as to mow or control weeds. The impacts of a garage within 2 feet of the lot lines would be minimal. Furthermore, such setback would be in character with the surrounding properties.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative, subject to the following conditions:

1) The garage shall be setback at least 2 feet from the north (side) lot line and at least 2 feet from the east (rear) lot line.

2) The garage shall be constructed in substantial conformance with the submitted elevations and shall be constructed with materials that complement the existing house.

3) The garage shall be constructed in accordance with all Building and Fire Codes, with issuance all necessary permits by the City’s Permit & 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 requested Type 2 Design Alternative, subject to the following conditions:

1) The garage shall be setback at least 2 feet from the north (side) lot line and at least 2 feet from the east (rear) lot line.

2) The garage shall be constructed in substantial conformance with the submitted elevations and shall be constructed with materials that complement the existing house.

3) The garage shall be constructed in accordance with all Building and Fire Codes, with issuance all necessary permits by the City’s Permit & Development Center.

THE VOTE: 11-0
NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 7

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 again until the meeting of the Plan and Zoning Commission scheduled for October 15, 2020, which would allow for additional discussion with the prospective developer and preparation of modifications to the Large-Scale Development Plan based on these discussions.

III. STAFF RECOMMENDATION

Staff recommends that the Commission continue the public hearing on consideration of the proposed items until their October 15, 2020 meeting. A complete Staff report and recommendation will be provided with the Commission packet for that meeting.
SUMMARY OF DISCUSSION

Erik Lundy stated staff has requested this item be continued to the October 15, 2020 meeting.

COMMISSION ACTION:

Will Page made a motion to continue this item to the October 15, 2020 meeting.

THE VOTE: 11-0

Item 8

Request from Greater Des Moines Habitat for Humanity, Inc. (owner) represented by Tami Kreykes (officer) for a Public Hearing Site Plan to allow appeal of the administrative denial of a Type 1 Design Alternative in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 1911 Franklin Avenue, to allow a One Household House Type D dwelling in an “N5” Neighborhood District to be constructed on the property without the required garage per Section 135-2.16.3.E.5. (BLD2020-01086)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new one-household dwelling on the property without provision of a 288 square-foot garage as required by Section 135-2.16.3.E.5. 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: 40 feet by 189 feet (7,568 square feet).

3. Existing Zoning (site): “N5” Neighborhood District.

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

5. Adjacent Land Use and Zoning:
North – “N5”; Uses are one-household dwellings.
South – “N5”; Uses are one-household dwellings.
East – “N5”; Use is a one-household dwelling under construction.
West – “N5”; Use is a one-household dwelling.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Mondamin Presidential Neighborhood. All neighborhoods were notified of the September 17, 2020 Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 4, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 28, 2020 (20 days) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Mondamin Presidential Neighborhood mailings were sent to Rhonda L. Cason, 1819 Jefferson Avenue, Des Moines, IA 50314.

8. Relevant Zoning History: None.


10. Applicable Regulations: Section 135-2.16.3.E.5 states that a minimum 288 square feet garage is required for each House D building type and each unit of a 2-unit House D. A Type 1 design alternative for reduction in the size of garage or waiver of garage requirement may be approved subject to provision, in lieu of the required garage, a minimum 120 square foot storage shed constructed with a foundation or concrete slab and with building materials matching the principal household dwelling on the property, and subject to determination by the community development director that the character of the surrounding area allows for a reduction in size or waiver of the required garage based on one the following:

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

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

For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination by the community development director will be based upon the assumption that such lots,
as if developed, contain the required minimum 288 square foot garages for each House D building, and each unit of a 2-unit House D, thereon.

Based upon these criteria, the Community Development Director denied the applicant’s request for a Type 1 Design Alternative.

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

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

- Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
  - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;
  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

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

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

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

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

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

    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. Accessory Structure Standards: Section 135-2.22.C provides the definition and standards for outbuildings and detached garages.

   C. Outbuilding and Detached Garage. A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds

   1. Side and Rear Setback. Minimum side and rear setback of an outbuilding shall be five feet.

   2. Alley. Where a garage is accessed off an alley with pavement narrower than 20 feet, the garage shall be set back from the alley lot line to allow 24 feet from the opposite edge of alley pavement to the garage door.

   3. Height. The maximum height of the outbuilding may be no taller than one-half story less than the principal building; however, in the event that the principal building is one story in height, the outbuilding may not exceed the height of the principal building.

   4. Residential Districts. The lot coverage of all accessory structures, including an outbuilding, shall not exceed 576 square feet or 25% of the rear yard, whichever is greater, on a lot zoned Neighborhood (N) or Neighborhood Mix (NX).

   5. Character. The outbuilding shall be compatible in color and character with the primary structure on the lot.

   6. Accessory Household Unit. If a AHU is contained within an outbuilding, then the requirements of subsections 4, 5, and 8 of section 135-2.22.2.F of this article shall also apply.

2. Staff Rationale: There are 48 residentially-zoned parcels and 49 total parcels located within 250 feet of the subject property. The non-residential parcel belongs to a church. Staff found that 24 of 48 residential parcels (50%) met the classification of having a garage structure or are vacant and assumed to have a 288 square foot garage in the future pursuant to Section 135-2.16.3.E.5. In addition, both lots on
either side of the subject property have a garage meeting or exceeding the minimum code requirement. The purpose of this requirement in the Zoning Ordinance is to ensure all properties provide suitable storage of vehicles, equipment, refuse and recycling disposal bins, etc.

The following Type 1 Design Alternatives have already been approved by staff:

a. A 29% reduction to the minimum interior side setback and a 7% reduction in the total interior side setback has already been approved by staff as a Type 1 design alternative.

b. A 14.6% reduction in required finished floor area of a 1.5-story house without a full basement has already been approved by staff as a Type 1 design alternative.

c. A 9% reduction in required minimum story height of 9 feet has already been approved by staff as a Type 1 design alternative.

d. A 3% increase to the maximum front yard coverage has already been approved by staff as a Type 1 design alternative.

Staff notes that the applicant is proposing to install a 10-foot by 12-foot shed in lieu of the required 288-square foot garage. Staff additionally notes that a 288-square foot garage could be satisfied by provision of a 12-foot by 24-foot garage in approximately the same location of the proposed shed.

Staff believes that a minimum 288 square feet garage is necessary on this property to provide essential storage for such items as vehicles, bicycles, lawn care equipment and refuse and recycling bins. It is within the character of the surrounding area for one-household dwellings to feature a garage. Allowing a newly-constructed dwelling to omit this character element will negatively impact the neighborhood’s existing character and will reduce the long-term appreciation in value for this property.

While staff understands that a 40' wide lot makes development more challenging, relief has been provided to reduce minimum interior side setback requirements. Staff believes that a single-family dwelling, driveway and garage can be accommodated on this parcel.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested appeal of the administrative denial of a Type 1 Design Alternative to allow construction of a new one-household dwelling unit on the subject property without the required garage.

SUMMARY OF DISCUSSION

Katherine Dostart presented the staff report and recommendation.

Lance Henning 2200 E. Euclid Ave. Executive Director of Greater Des Moines Habitat for Humanity presented Power Point Presentation to the commission. He stated that the purchaser of the home earns less than 60% of AMI. They did build a garage at
1901 Franklin but it has access from an alley and required less driveway. With limited staff resources, they didn’t have time to request relief to the ordinance. 1915 Franklin was granted a garage waiver. A garage costs $15,000 to build. 56% of lots within the entire Mondamin Presidential Neighborhood do not have garages. 6 vacant lots are counted as “compliant” per code. 2 vacant lots are side yards of adjoining properties and won’t be built on. The average assessed value of properties within 250’ feet is 63,331. The proposed home will have an assessed value of $146,500 which is 2.3 times the average value in the neighborhood.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

None were presented or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Emily Webb stated Habitat for Humanity does great things for the Des Moines Community by providing affordable housing and she would be inclined to grant a waiver to the garage requirement.

Dory Briles stated she would be in agreement with Emily Webb’s motion.

**COMMISSION ACTION:**

Emily Webb made a motion for approval of the requested appeal of the administrative denial of a Type 1 Design Alternative to allow construction of a new one-household dwelling unit on the subject property without the required garage.

**THE VOTE:** 9-2 (Steve Wallace and Greg Jones voted in opposition)

Item 9

Request from Peter Cherkas (owner), for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives and denied Type 1 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 5327 Southeast 40th Street, in order to allow expansion of a House Type D in an “A” Agricultural District. (BLD2020-02167)

A) Allow a principal entrance on a non-street facing front façade as required per Section 135-2.1.6.A.3.

B) Waiver of required public sidewalk installation on adjoining public streets required per Section 135-8.5.2.
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a large home addition with an attached garage on the subject property and is asking to be allowed to retain a principal entrance on a non-street facing façade and for waiver of the standard that requires them to construct a public sidewalk along SE 40th Street. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 250 feet by 1,275 feet (319,730 square feet or 7.34 acres)

3. Existing Zoning (site): Agricultural

4. Existing Land Use (site): Agricultural

5. Adjacent Land Use and Zoning:
   - North – “A”; Agriculture Field.
   - South – “A”; Agriculture Field.
   - East – “A”; Agriculture Field.
   - West – “A”; Agriculture Field.

6. General Neighborhood/Area Land Uses: The subject property is in an agricultural area that is void of other residential dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is not located in a recognized neighborhood. However, all recognized neighborhood associations were notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2020 and the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (13 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

8. Relevant Zoning History: N/A.


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

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

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

  ➢ Zoning restrictions at the time of the proposal;

• The city’s comprehensive plan;

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

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

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

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

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

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

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  - An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  
- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested:

  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  
  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  
  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
  
  - Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
  
  - Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.
II. **ADDITIONAL APPLICABLE INFORMATION**

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

2. **Staff Analysis:** The applicant is proposing to construct a large home addition with an attached garage on the subject property and is asking to be allowed to retain a principal entrance on a non-street facing façade. The applicant points to the fact that the home was built in 1957 and the front door location has always been on the south façade of the home, which does not face SE 40th Street. The applicant is not proposing to move the original location of the front door as part of their home addition/renovation project.

   The applicant is also requesting waiver of the sidewalk requirement. The subject property and the parcels to the north, south, and west do not currently have sidewalks. The applicant points to the lack of walks on the immediately joining lots, the rural cross section of the roadway, as well as the agricultural setting of the property as the basis for their request.

   Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. The City Council also noted this as a priority at their April 26, 2019 City Council Planning Session. The adjoining section of SE 40th Street consists of a rural cross section. City engineering staff have looked at the grade contours and believe that a sidewalk can be constructed along SE 40th Street. However, portions of the walk may need to be constructed on the applicant’s property with a public access easement being granted.

III. **STAFF RECOMMENDATION**

A) Staff recommends approval of the requested Type 2 Design Alternative to allow the principal entrance to remain on a non-street facing façade.

B) Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face a practical difficulty as it is possible to construct a public sidewalk along E. 40th Street. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

Peter Cherkas 5327 SE 40th Street stated there is not another sidewalk with in 8/10 of a mile and they are surrounded by corn fields. They are willing to install sidewalks once there is connectivity closer to them.
CHAIRPERSON OPENED THE PUBLIC HEARING

None were present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones asked if an agreement could be made for future installation of the sidewalk?

Jason Van Essen stated with past cases, staff haven’t found a good solution as the City doesn’t assess for sidewalks and escrowing the payment didn’t make sense because of longevity of sidewalks being installed.

Greg Jones stated he would grant the wavier if something could be placed in the motion stating the owner has agreed to install the sidewalk once connectivity comes closer to the property.

Mike Ludwig stated it would be just as easy to construct the sidewalk if you were going to escrow for it in this instance. The problem with an agreement is if the property is sold, the new owner would have no idea about the obligation unless a deed restriction could be placed on the property.

Judy Parks-Kruse stated she hasn’t seen any consistent approach to this type of request and it would be unusual for a deed restriction to be placed on the property. Staff will need to continue working on a uniform approach, enact that into the ordinance and bring that information to the commission.

Will Page recommended a subcommittee be formed to look into these issues and form some type of solution.

Mike Ludwig stated he would suggest involving the Transportation Safety Committee and Engineering Department as this requirement comes out of MoveDSM.

COMMISSION ACTION:

Will Page made a motion for approval of Part A) APPROVAL of the requested Type 2 Design Alternative to allow the principal entrance to remain on a non-street facing façade and Part B) APPROVAL of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face a practical difficulty as it is possible to construct a public sidewalk along E. 40th Street. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

THE VOTE: 10-1 (Johnny Alcivar voted in opposition)
Item 11

Request from JD Des Moines, LLC (owner) represented by James Milton Johnson (officer), for review and approval of a Public Hearing Site Plan “Community Based Outpatient Clinic” for 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 1211 East Army Post Road in order to allow a renovation and canopy addition to an existing Storefront Type building within an “MX3” Mixed Use District building for a community based outpatient clinic. (10-2020-7.128)

A) Allow a newly constructed primary entry which is not recessed between 3 and 8 feet per Section 135-2.5.3.D.21.

B) Allow the maximum impervious surface area to exceed 80 per Section 135-2.5.3.A.7.

C) Allow an interior parking lot landscaping which does not meet the minimum landscape island within every 9th parking space Section 135-7.9.2.A. (Denied Type 1)

D) Allow parking lot lighting poles with fixtures which exceed the maximum 20’ height requirement per Section 135-8.2.1.E.

E) Allow rooftop mechanical equipment which would not to be screened per Section 135-4.5.5.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed redevelopment and addition to the former Toys R Us building is proposed to provide a regional outpatient clinic function for the U.S. Department of Veteran Affairs.

2. Size of Site: 3.83 acres.


4. Existing Land Use (site): Former Toys R Us retail site store within the Southridge Mall campus.

5. Adjacent Land Use and Zoning:
North – “CX”; Use is restaurant.

South – “CX”; Uses are off-street parking and former Sears anchor store on the main mall complex.

East – “CX”; Use is commercial center with Petco and Midwest Mattress stores.

West – “CX”, Use is Hy-Vee General Retail and Food Store.

6. **General Neighborhood/Area Land Uses:** The subject property is in the Southridge Mall campus as the center of a regional node along the Highway 69/Southeast 14th Street/Southridge Boulevard.

7. **Applicable Recognized Neighborhood(s):** The subject property is not within a recognized neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 28, 2020 and by mailing of the Final Agenda on September 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 4, 2020 (13 days prior to public hearing due to the Labor Day holiday) to primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

8. **Relevant Zoning History:** N/A.

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

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

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

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

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

- The city's comprehensive plan;

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

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

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

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

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

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

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

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

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

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

    - 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 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 a newly constructed primary entry which is not recessed between 3 and 8 feet per Section 135-2.5.3.D.21.

   As part of the reuse of the building for the outpatient clinic, the existing building is being retrofitted with a glass storefront entrance element. This is covered with an entrance canopy over an entrance plaza described as a porte cochere. The applicant argues that unlike traditional retail/mixed use districts, where recessed entries have now become iconic, and were originally designed to allow pedestrians
a place to get out of the weather before entering a building, this building is designed with a large entry canopy that will provide weather protection for pedestrians, thus rendering the recessed entry unnecessary. Additionally, the applicant has stated that the aesthetic value of a recessed entry would be virtually nullified by its location below the proposed large entry canopy, as well as its location in a type of development where such a feature is not typically provided.

Staff concurs with the design rationale for deviating from the required recessed entrance.

B) Allow the maximum impervious surface area to exceed 80% per Section 135-2.5.3.A.7.

This project involves the redevelopment of a previously vacant existing site where the total impervious surface area was 92% impervious. The project will add approximately 7,700 square feet of additional green space which decreases the total impervious site area to 87%. The applicant has further indicated that they are attempting to add as much green space as possible to a previously developed site while maintaining the functionality of the proposed use of the site.

Staff appreciates the proposed reduction in impervious surface with the project. This reduction is believed to be appropriate only to the extent that it is not compromising the need to provide the required interior landscape islands. Staff supports any amount of impervious over the 80% threshold that would remain after adding the required interior islands.

C) Allow an interior parking lot landscaping which does not meet the minimum landscape island within every 9th parking space Section 135-7.9.2.A. (Denied Type 1)

Due to parking requirements of the Veterans Administration, the applicant does not propose adding any additional interior parking lot islands. To include any landscape islands would reduce the number of parking spaces below the required minimums of the client. An area of approximately 5,000 square feet of green space has already been incorporated into the plan above what is required under the ordinance.

Staff does not concur with the applicant’s desire to forego the required interior lot landscape islands. The 12-16 parking spaces that would be compromised would not present an impact on the surrounding parking areas and ample parking would be provided to satisfy demand of the outpatient clinic operation.

It would be more important to provide the mitigating effect of the tree shading on the expansive area of paving and help to further reduce the amount of impervious surface. While staff appreciates the applicant’s proposal to reduce the existing condition significantly, the provision of the interior islands are critical to meeting the intent of the Ordinance. Staff would especially emphasize the need for the islands
along the west bank of parking to off-set the preference to remove existing trees along the Mall road that would accommodate a pedestrian sidewalk in that location.

D) Allow parking lot lighting poles with fixtures which exceed the maximum 20’ height requirement per Section 135-8.2.1.E.

That applicant has indicated that due to the property being located within a mall campus and existing pole heights being well over 20’, the design proposed design utilizes existing poles and matches pole heights where new poles are added.

Staff concurs that compatibility with the mall campus lighting scheme is more important than scaling down the poles heights only for this specific site.

E) Allow rooftop mechanical equipment which would not to be screened per Section 135-4.5.5.

The applicant has indicated that a single, large rooftop mechanical unit placed at the center of the roof would be the least visible approach to providing a new mechanical system to the existing building. The mechanical unit is provided with screening that will completely hide it from all directions. The screening will be comprised of architectural metal panels that will complement the building’s design.

The applicant further states that the smaller rooftop equipment would be mostly hidden by the existing parapets, but not completely. Where it would not be hidden, it would be light grey or silver in color to blend with the white roof. The larger pieces of equipment that would not be hidden by screening are proposed to be set back from the roof’s edges, and would be difficult to see when proximate to the building.

In the case of this building, which would be an existing building with an addition, the existing roof structure would not hold the proposed large rooftop unit. Therefore, an entirely new structural system would be being installed below it, complete with columns that will bear on new footings. This new structure would be designed not only to carry the mechanical unit, but would supplement the existing structure to resist additional wind and drifting snow loads caused by the new screening.

The applicant further argues that while the existing roof structure is capable of carrying the gravity loads of the proposed smaller pieces of new equipment with little or no modifications, its ability to resist the additional wind loads imposed by screening, as well as the associated new snow drifting, would require a significant amount of reinforcement to the existing structure, making it very impractical. Additionally, when the design team looked at screening concepts for the smaller equipment, the consensus was that small areas of tall screening around tall condensing units and exhaust fans would be more detracting than leaving the equipment exposed.

Staff concurs with the applicant’s assessment of the rooftop mechanical screening solutions. Staff believes that separate architectural screening systems for the smaller units spaced over the roof would actually draw more visual attention and
that the coloration solution to blend with the lighter color roof would meet the intent of the provision.

3. **Staff Rationale:** Staff believes that the developer has proposed a quality development to serve a unique function for a regional outpatient clinic serving veterans. The developer would be making a substantial investment to repurpose an outdated retail box store by improving the site with building addition and upgrades along with additional open space.

Staff concurs with the applicant’s design rationale for the Design Alternatives in Parts A, B, D, and E. However, staff would not concur with the waiver of the required interior landscaping. This is based on the finding that other than the additional cost, the provision of the required islands would not adversely impact the parking demand and present congestion, but would rather further the intent of the Ordinance to minimize impervious surface and provide necessary shading canopy over time.

**III. STAFF RECOMMENDATION**

Staff recommends **denial** of the request appeal of the administrative denial of Part C which is a Type 1 Design Alternative for waiver of interior lot landscaping.

Staff recommends approval of the requested Design Alternatives in Parts A, B, D, and E subject to providing the required interior lot landscaping and subject to compliance with all administrative comments.

**SUMMARY OF DISCUSSION**

**Erik Lundy** presented the staff report and recommendation.

**Mark Schmitt** 115 5th Ave South, Wisconsin stated when they started this project they were told by the mall owner they needed to provide 208 parking spaces, which was based on the old zoning code. After a conversation with the City Planning staff, they believed the 208 parking spaces could be wrong. They went back to the mall owner and they were willing to reduce that down to 199 parking spaces. Once they reduced parking spaces, they were able to add 8 internal landscape islands and sent a revised plan to staff on Tuesday. They will have 2 landscape islands in the West parking lot, 1 in the North lot and 5 in the East lot which would meet the requirement for a landscape islands for every 9 parking spaces.

**Will Page** asked how the islands will be landscaped.

**Mark Schmitt** stated each island that replaced 1 parking space will have 1 tree and each island replacing 2 parking spaces will have 2 trees. The revised plan will also show the sidewalk being installed to the West and South of the building.

**Will Page** stated the landscape islands to the East will be a huge improvement because of the amount of concrete in this area.
CHAIRPERSON OPENED THE PUBLIC HEARING

Derek Weave representing JD Des Moines stated this project will not only serve the veterans of the community but will be a huge part of the revitalization of South Ridge that has been taking place over the past several years.

Jeff McDonald 3600 30th Street stated he would opposed to the instillation of the islands as it would impede parking, snow removal and drainage as the water drains from East to West towards the entrance of the building. These landscape islands will make accessibility difficult for older veterans using canes, walkers or wheelchairs.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Mark Schmitt stated they will maintain the VA’s parking requirement and also balance the requirement of the City. If the Commission is inclined to approve the plan without landscape islands he would be ok with that as Mr. McDonald does make some valid points.

Erik Lundy stated staff has a more holistic approach as these landscape islands help mitigate heat and longevity of the parking surface. This also helps limit people speeding through the parking lot which would be detriment for people walking in from their parking space into the building. He stated staff would recommend approval of the revised site plan as shown during the meeting.

COMMISSION ACTION:

Will Page made a motion for approval of the requested appeal of the administrative denial of Part C which is a Type 1 Design Alternative for waiver of interior lot landscaping subject to the revised site plan as presented and APPROVAL of the requested Design Alternatives in Parts A, B, D, and E subject to providing the required interior lot landscaping and subject to compliance with all administrative comments.

THE VOTE: 11-0

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Committee and Director’s Reports:

Mike Ludwig stated the Mayor and City manager have extended closure of City buildings to December 1st. The Commission will continue to meet virtually through the month of November.

Meeting adjourned at 7:30pm