The October 1, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 943 9267 7506.


P&Z ABSENT: Lisa Howard and Steve Wallace

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

Will Page requested an amendment to the minutes for Item #8 to note that P&Z should establish a sub-committee regarding sidewalk waivers (i.e. alternative methods for ensuring an applicant’s financial participation for future sidewalk construction).

Dory Briles made a motion to approve the September 17, 2020 Plan and Zoning Commission meeting minutes with the amendment noted by Mr. Page. Motion carried 9-0-3 (Rocky Sposato, Greg Wattier abstained from the vote as they were not present for the September 17 meeting. Francis Boggus vote could not be confirmed due to audio difficulties).

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda item #1. None were present or requested to speak.

Dory Briles made a motion to approve Consent Agenda Item #1. Motion carried 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties).

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Casey’s Marketing Company (developer) represented by Erik Nikkel (agent) for the following regarding the property at 3121 Forest Avenue. The subject property is owned by Neighborhood Development Corporation:

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

B) Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use designation from Neighborhood Mixed within a Neighborhood Node to Community Mixed Use within a Neighborhood Node. (21-2020-4.20)

C) Rezone property from “MX1” Mixed Use District to “MX3” Mixed Use District to allow redevelopment of the site with a 3,400-square foot store for Retail Sales,
Limited use with the ability to request a Conditional Use for a business that sells alcoholic liquor.

(ZON2020-00109)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to develop a new 3,400-square foot convenience store without fuel sales.

2. Size of Site: 18,359 square feet.

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


5. Adjacent Land Use and Zoning:

   North – “N5”; Uses are one household dwellings.
   South – “RX1” and “MX1”; Uses are parking lots and restaurant.
   East – “MX1”; Uses are multiple household dwelling and vacant land.
   West – “RX1; Use is multiple household living development.

6. General Neighborhood/Area Land Uses: The subject property is in a mixed-use node on the Forest Avenue corridor west of Drake University that contains a mix of higher-density residential and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Drake Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on September 11, 2020 and by mailing of the Final Agenda on September 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 11, 2020 (20 days prior to the hearing) and September 21, 2020 (10 days prior to the hearing) to the Drake 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 Drake Neighborhood Association notices were mailed to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**
   Neighborhood Mixed Use within a Neighborhood Node.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The applicant is requesting that the future land use designation for the property be amended from “Neighborhood Mixed Use” to “Community Mixed Use.” Plan DSM describes these designations as follows:

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

   **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.

In general, liquor sales would require a Conditional Use that could be approved in Zoning Districts that would be found consistent with “Community Mixed Use.” This amendment is necessary so that the proposed “MX3” District zoning may be found in conformance with the Comprehensive Plan. 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, Principal-Use Parking Structure, and Civic Building.

Staff believes the proposed amendment is appropriate given the location of the subject property on a high-volume transportation corridor and the site being located within a Neighborhood Node.
Because of the proximity of the project to one household living uses in the neighborhood to the north, Staff is concerned about the introduction of permitted uses and accessory structures with the proposed rezoning that would only be conducive to the highest volume traffic, mixed use corridors.

For example, hotel/motels, bars, general retail sales (larger than 12,000 square feet) and fuel stations are uses permitted in “MX3” District but not the “MX1” District. These uses, if permitted, would present adverse impacts to the residential area to the north. Furthermore, assembly uses would require more scrutiny of the Conditional Use review by the Zoning Board of Adjustment in the “MX1” District versus the “MX3” District. And, the “MX3” District would allow for accessory structures permitting drive-through and fuel station functions. These would also present adverse impact.

Staff recommends that any rezoning to the “MX3” District only allow the added ability to request a Conditional Use to allow sale of packaged alcoholic liquor plus the same Permitted and Conditional Uses in common with the “MX1” District as restricted by the “MX1” District. Also, Staff recommends that accessory structures should only be those allowed in the “MX1” District. By limiting the rezoning of the property to “MX3” as described, the use of the property would be able to remain compatible with the one household living uses adjoining to the north.

2. Planning and Design Ordinance: Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The applicant has provided a concept of the development using the Storefront Type with the building built-to the front property lines at the intersection. This would generally be consistent with the intent of the Ordinance. However, Site Plan development would be subject to full review under the Code.

3. Grading & Storm Water Management: Any grading is subject to an approved grading permit and soil erosion control plan. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Neighborhood Mixed Use within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.

Part C) Staff recommends approval of rezoning the subject property from “MX1” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:
1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor with approval of a Conditional Use and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2. Accessory structures shall be limited to those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

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:

Dory Briles made a motion for approval of Part A) the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use, Part B) APPROVAL of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Neighborhood Mixed Use within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part C) APPROVAL of rezoning the subject property from “MX1” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor with approval of a Conditional Use and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2. Accessory structures shall be limited to those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

THE VOTE: 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties).

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Thirty One Hundred Grand Avenue Condominium (owner) represented by Nancy Strickler (officer), for review and approval of a Public Hearing Site Plan Alternate Design Documentation 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 3100 Grand Avenue, in order to allow installation of a 25-foot tall Flag Pole in the front yard area along Grand Avenue that would exceed the maximum allowed height of 15 feet for a
Flag Pole within an “NX3” Neighborhood Mix District building per Chapter 135 Section 135-2.22.3.E.2. (ZON2020-00111)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed alternate design documentation would allow installation of a 25-foot flag pole in the front yard area of the condominium multiple household living use.

2. Size of Site: 1.343 acres.


4. Existing Land Use (site): The subject property contains an existing 7-story, 64-unit multiple household dwelling. The property is set up as a condominium regime with separate owners of each household living unit.

5. Adjacent Land Use and Zoning:
   - North – “NX3”, Uses are multiple household living use dwellings.
   - South – “P2”, Use is Unity Church of Des Moines an assembly, place of worship use.
   - East – “NX3”, Use is a multiple household living use dwelling.
   - West – “P2”, Uses are civic buildings within the Des Moines University medical campus.

6. General Neighborhood/Area Land Uses: The subject property is located along Grand Avenue corridor to the west of Downtown in an area that transitions to high density residential and institutional uses going west. The property is within a Community Node.

7. Applicable Recognized Neighborhood(s): The subject property is in the Greenwood Historic Neighborhood and within 250 Feet of the North of Grand Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on September 11, 2020 and the Final Agenda on September 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 21, 2020 (10 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 Greenwood Historic Neighborhood mailings were sent to Nicholas Larson, 127 34th Street, Des Moines, IA 50312. The North of Grand Neighborhood mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312.

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 “NX3” Neighborhood Mix District.


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

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

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

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL INFORMATION

1. **Type 2 Design Alternative Requested:** Allowance of 10 feet of height over the maximum 15 feet of height for a flag pole per Section 135-2.22.3.E.2. of the Planning and Design Ordinance applicable to flag poles in the “NX1” District. This provision is intended to differentiate between maximum pole heights allowed in less intensive development areas and those with greater intensity of use. Installation of a flag pole does not drive a building permit review. However, the installation must still comply with the regulations in Chapter 135.

2. **Staff Rationale:** Staff finds that the requested Type 2 Design Alternative to allow installation of a flag pole that would be 25 feet in height would not affect the character of the Grand Avenue corridor within a High Density Residential area in a Community Node nor have any substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. The flag pole would be located between the 7-story building on the subject property and Grand Avenue. The proposed height would not be out of scale with the building and would be mitigated by the existing height of the building. The impact of a flag being flown at 25 feet versus 15 feet would only affect the residents of the building ownership requesting the Design Alternative. The level of the Flag would have different visibility from different floors of the building with window openings toward Grand Avenue depending on whether it is allowed at 25 feet or 15 feet maximum.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternative to allow installation of a flag pole that is 25 feet in height within the north front yard of the building along Grand Avenue.
SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Mary Whisenand, 3100 Grand Unit 5E stated the reason for this request is because the current flag pole is only 15 feet high, sits far from the view of the street and is past its life span as they can no longer raise and lower the flag. They will be using solicited funds from condominium residents and no money will be used from the association. This new flag pole will be visible from Grand Avenue and the overall corridor.

CHAIRPERSON OPENED THE PUBLIC HEARING

Dennis Davis 3100 Grand Avenue stated the 25-foot flag pole is more of an appropriate height for a 7-story building.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones stated staff should revisit the zoning ordinance around the height of flag poles when in front of a 7-story building.

COMMISSION ACTION:

Greg Jones made a motion for approval of the requested Type 2 Design Alternative to allow installation of a flag pole that is 25 feet in height within the north front yard of the building along Grand Avenue.

THE VOTE: 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties)

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Item 3

Request from Alpha Phi House Corporation (owner) represented by Kim Upton (officer), for review and approval of a Public Hearing Site Plan Alternate Design Documentation for a denied Type 1 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 1240 34th Street, in order to allow installation of a 1-foot tension wire extension to the height of an existing 6-foot tall chain-link fence for a total height of 7 feet in the rear yard area, that would exceed the maximum allowed height of 6 feet for a fence within the rear yard of an “NX2” Neighborhood Mix District building per Chapter 135 Section 135-7.11.

(BLD2020-01063)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to add a tension wire atop the pre-existing 6’ chain link fence with slats. The tension wire would extend over the property line. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 88 feet by 462 feet (40,656 square feet).


4. Existing Land Use (site): The property consists of two parcels. They contain a 2-story sorority residence totaling 15,184 square feet of living area and a surface parking lot on the west (rear) parcel. The rear yard is currently fenced with a 6-foot tall chain link fence.

5. Adjacent Land Use and Zoning:
   
   North – “NX2”; Uses are sorority/fraternity dwellings, multiple-household dwellings, and religious assembly uses.
   
   South – “NX2”; Uses are sorority/fraternity dwellings, multiple-household dwellings, and religious assembly uses.
   
   East – “NX2”; Uses are sorority/fraternity dwellings, multiple-household dwellings, and religious assembly uses.
   
   West – “NX2”; Uses are sorority/fraternity dwellings, multiple-household dwellings, and religious assembly uses.

6. General Neighborhood/Area Land Uses: The subject property is in an area that consists of a mix of sorority/fraternity dwellings, multiple-household dwellings, and religious assembly uses.

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 September 11, 2020 and the Final Agenda on September 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 21, 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 Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: None.

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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
Consider the smart planning principles set forth in Iowa Code Chapter 18B.

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Side, Street-Side, and Rear Yards Fence Regulations: Section 135-7.11 provides the definition and standards for any fence in a side, street-side, or rear yard area.

   7.11.2. LOCATION AND PLACEMENT
   B. Side Yards. Fences in any zoning district may be constructed in a side yard up to a side property line.
   C. Rear Yards. Fences in any zoning district may be constructed in a rear yard up to a rear property line.
   D. Face Direction. All fences shall be erected with the "good," "decorative," or "finished" side facing outward.
   E. Unauthorized Placement Prohibited. It is unlawful for any person to place or maintain any post, rail, fence, wires or other similar obstruction / upon any street, sidewalk or public right-of-way in the city, except as otherwise expressly provided in these regulations or approved by the city for outdoor dining or seating or by lease, license or similar agreement.

   7.11.3. HEIGHT
   B. Side, Street-Side, and Rear Yards.
   2. In all other districts [other than I1,12, and CX], the maximum height of any fence in a rear, side, or street-side yard is six feet except the following:
      a. Fences required for frontage buffers are defined in section .135-7.7 of this article,
      b. Where the interior side yard in an N district is less than five feet in width, the maximum height of the fence is four feet, when adjacent to a primary structure.
      c. In rear yards in N districts, where the lot abuts any MX, CX, EX or I district, the maximum height of the fence is eight feet.

   7.11.4. TYPES AND MATERIALS
   A. No fence shall be constructed of barbed wire, concertina wire, razor wire or ribbon, or any other similar type of wire, except in the I districts or for the confinement of agricultural animals lawfully kept in conformance with chapter 18 of this code or with a Type 1 design alternative for special circumstances such as an airport or public utilities.
   B. No fence shall be electrified, unless all of the following is met:
1. The fence is electrified by a device approved by a nationally recognized
testing laboratory as meeting the standard for safety of electric fence
controllers, and bears a certificate stated as such.
2. The fence is used in accordance with the manufacturer’s suggested
installation instructions.
3. The fence is used to confine agricultural animals lawfully kept in
compliance with the requirements of chapter 18 of this code.

C. Chain link and wire fencing is prohibited in any front yard in any district,
except in the P1 district for sports fields and playgrounds.

7.11.5 MAINTENANCE
Fences shall be kept in good repair and replaced if they become prone to collapse
or visual deterioration. Fences shall be free of rust, flaking paint, and graffiti.

2. Additional Information: The subject property is utilized by a sorority for a dwelling
and a surface parking lot. The application to install additional safety measures was
initiated by the applicant following an incident involving a resident and an assailant
who entered the subject property by climbing over the existing fence.

Staff reviewed the application and denied the applicant’s request for a Type 1
design alternative to allow a tension wire atop the pre-existing fence and extending
over the adjacent property. Staff notes that the pre-existing fence is located along
the property line and that any addition to it could not be placed over the adjoining
properties.

Staff additionally advised the applicant of other options to potentially achieve their
objectives within the by-right and Type 1 design alternative fence allowances of the
code, including construction of an 8-foot tall wood privacy fence (6’ foot solid wood wall
with 2 feet of wood lattice at the top).

III. STAFF RECOMMENDATION

Staff recommends denial of the request to allow installation of a 1-foot tension wire
extension to the height of an existing 6-foot tall chain-link fence with slats for a total
height of 7 feet in the rear yard area that would exceed the maximum allowed height of
6 feet for a fence within the rear yard.

Staff recommends approval of an amended request to allow expansion of the vertical
height of the pre-existing fence to 7-foot tall or construction of a new 7-foot tall vertical
fence in the rear yard. Staff also remains supportive of an 8-foot tall wood privacy
fence (6’ foot solid wood wall with 2 feet of wood lattice at the top).

SUMMARY OF DISCUSSION

Katherine Dostart presented the staff report and recommendation.

Kim Upton 1240 34th Street stated the recommendations were never relayed to her
from the contractor until she received the agenda in the mail. They are happy with any
recommendation City Staff for adding some height to the fence and providing extra security for the women that live here.

Greg Wattier asked if they would agree with what City Staff has recommended?

Kim Upton asked if Greg Wattier was referencing the wood privacy fence?

Greg Wattier stated he believes extending the chain-link material that already exists.

Katherine Dostart stated they could extend the height of the existing chain-link fence to 7 feet in height or build a new 8-foot tall fence. With the existing fence, they would not be able to construct something that extends over the adjoining properties. Alternatively, Staff would support construction of a 6-foot solid wood fence with 2-foot of lattice on top of that.

Kim Upton stated they would like the fence to stand 8-foot because they believe 7-foot will not be tall enough to keep intruders out.

Erik Lundy stated the staff report was revised to consider the 8-foot tall fence.

Mike Ludwig stated he reviewed the original request which was for vinyl slats in the existing chain link fence with the tension wire on top of that. Staff believes the vinyl slats wouldn’t fit the character of the neighborhood and if visibility was an issue into the parking lot, the 6-foot wood fence would be a better solution for blocking visibility into the parking lot. Staff also believes that a wood fence would not be as easy to climb as a chain-link fence.

Kim Upton stated they would except the requirement for 6-foot tall wood fence with 2-foot of lattice on top.

CHAIRPERSON OPENED THE PUBLIC HEARING

Mike Hutchison, 3523 University Ave. stated he was opposed to the original request but would support the staff’s recommendation for an 8-foot tall wood fence (6-foot solid wood wall with 2 feet of wood lattice at the top).

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Dory Briles made a motion for approval of an 8-foot tall wood privacy fence (6’ foot solid wood wall with 2 feet of wood lattice at the top).

THE VOTE: 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties)
Item 4

Request from Agribusiness Association of Iowa Foundation (owner) represented by Joel Brinkmeyer (officer) for review and approval of a Public Hearing Site Plan Alternate Design Documentation for the following Type 2 Design Alternatives and denied Type 1 Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 900 Des Moines Street to allow a 3-story, 2,654-square foot expansion of the existing office building treated as a General Building Type in the “P2” Public, Civic, and Institutional District. (10-2020-7.121)

A) Waive the requirement for rooftop mechanical screening per Sec. 135-4.5.5.
B) Waive the requirement for replacing street lights and undergrounding of overhead utilities per Sec. 135-9.2.1.E.
C) Approval of façade materials that do not meet the allowed major and minor façade material requirements per Sec. 135-4.2.
D) Approval of horizontally oriented windows per Sec. 135-4.3.1.C.
E) Waiver of the building articulation requirements per Sec. 135-4.3.9.
F) Waiver of the required 7’ fence frontage buffer depth per Sec. 135-7.7.2.A.
G) Waiver of the metal fence as required by the fence frontage buffer fence per Sec. 135-7.7.2.B.
H) Waiver of the required street trees per 135-7.5.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow expansion of an existing 3-story office building. The proposed expansions include three (3) building additions and a complete renovation of the building’s façade.

2. Size of Site: 12,081 square feet (0.27 acre).


4. Existing Land Use (site): The subject property contains a 3-story office building with a surface parking lot to the north of the building.

5. Adjacent Land Use and Zoning:
   
   North – “P2”, Use is an office use.

   South – “N5”, Uses include Des Moines Street and a church.

   East – “MX3”, Use is a parking lot.

   West – “N5”, Uses East 9th Street and a church.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the northern fringe of the State of Iowa Capitol Complex, where uses transition from surface parking lots to churches and office uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. All neighborhoods were notified of the October 1, 2020 Commission meeting by mailing of the Preliminary Agenda on September 11, 2020 and the Final Agenda on September 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 21, 2020 (10 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 Historic East Village Neighborhood mailings were sent to Taylor Frame, PO Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** On May 27, 2020, by Docket ZON2019-00148, the Zoning Board of Adjustment granted a Variance of 17.45 feet less than the minimum 30-foot front yard setback required along the west (front) property line adjoining East 9th Street, an Exception of 10.29 feet less than the minimum 30-foot front yard setback required along the south (front) property line adjoining Des Moines Street, an Exception of eight (8) parking spaces less than the minimum 22 off-street parking spaces required for 8,570 square feet of office use (one space per 150 square feet), and a Variance of the provision for the “C-0” Commercial-Residential District that states “no existing building shall be altered or reconstructed in such a way so as to appear to be anything but residential in character”. These appeals allow construction of a 33.56-foot by 11-foot, 3-story addition to the northwest side of the existing building, which would be within 12.55 feet of the west (front) property line along East 9th Street, and construction of a 40.10-foot by 10.31-foot, 3-story addition to the south side of the structure that would be within 19.71 feet of the south (front) property line along Des Moines Street. The approval is subject to the following conditions of approval:

1. Any additions to the existing building shall be constructed in conformance with all applicable Building and Fire Codes with issuance of all necessary permits and approval of a Site Plan by the Permit and Development Center.

2. Any proposed additions shall be in substantial compliance with the submitted architectural design elevations.

On December 16, 2019, the subject property was rezoned from “C-0” Commercial Residential District to “P2” Public, Civic, and Institutional District, as part of the Citywide rezoning established by Ordinance 15,818.
While the subject property was rezoned, the applicant has two (2) years from the date of the Board of Adjustment’s approval to construct the use allowed by the appeals. However, since the Site Plan for the allowed use was submitted after December 16, 2019, the Site Plan is held to the design guidelines contained in Chapter 135 of the City Code.

9. **PlanDSM Future Land Use Plan Designation:** Public/Semi-Public.

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

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

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

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

     - Zoning restrictions at the time of the proposal;

   - The city’s comprehensive plan;

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

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

   - Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

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

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

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

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

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

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

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

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

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

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
 Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

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

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

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

II. DESIGN ALTERNATIVES

A. Type 2 Design Alternative request for waiver of the requirement for rooftop mechanical screening: Section 135-4.5.5 of the Planning and Design Ordinance requires all rooftop mechanical equipment to be screened with architectural quality metal screen material that is equal to the height of the equipment. The applicant has indicated the existing building cannot structurally accommodate additional weight on the roof. They have provided estimates that it would cost $50,000 to add necessary structural elements and that it would cost an additional $25,000 for the screening material. Staff recommends denial of the quested Type 2 Design Alternative since it remains necessary to screen all rooftop mechanical equipment.

B. Type 2 Design Alternative request for waiver of the requirement for replacing street lights and undergrounding of overhead utilities: Section 135-9.2.1.E of the Planning and Design Ordinance requires all electrical, telephone, and cable television transmission systems shall be placed underground whenever reasonably practical. The applicant has provided a cost estimate from MidAmerican Energy that indicates it would cost $17,941.64 to replace three (3) street lights with black LED “Autobahn” series light fixtures. The applicant has also provided a cost estimate from MidAmerican Energy that indicates it would cost $121,609.03 to underground the existing overhead utilities along East 9th Street. Staff recommends denial of the quested Type 2 Design Alternative since it is the City’s desire to have black LED “Autobahn” series light fixtures and underground utilities whenever possible, specifically in the City’s core.

C. Type 2 Design Alternative request approval of façade materials that do not meet the allowed major and minor façade material requirements: Section 135-4.2.2 of the Planning and Design Ordinance and Table 135-4.1-1 for Major Façade materials, does not allow for fiber cement board or concrete masonry units as a major façade material, and requires synthetic stucco to be on the 3rd floor or higher of a non-street facing facade. The submitted elevations indicate that the west street facing façade would be sided with 30% brick, 18% painted block, 13% gypsum stucco, 16% glazed curtain wall system, and 18% fiber cement panels. The south street facing façade would be sided with 12% brick, 8% painted block,
4% gypsum stucco, 44% glazed curtain wall system, and 29% fiber cement panels. The applicant indicates that the proposed building materials are necessary to architecturally differentiate the proposed additions from the existing building. Staff recommends approval of this Type 2 Design Alternative so long as any portion of any façade that is within 2 feet of grade shall consist solely of an approved major façade material.

D. Type 2 Design Alternative request for approval of horizontally oriented windows: Section 135-4.3.1.C of the Planning and Design Ordinance requires that all windows be vertically oriented. The proposed elevations include horizontally oriented windows on the north façade. The applicant indicates that this is necessary since the windows would be within space used for storage. Thus, the proposed windows would allow for natural light while not impeding storage. Since the proposed horizontally-oriented windows represent only a small portion of the building overall windows and since they are located on a non-street-facing façade, recommends approval of this Type 2 Design Alternative.

E. Type 2 Design Alternative request for waiver of the building articulation requirements: Section 135-4.3.9 of the Planning and Design Ordinance requires articulation or fenestration between stories. The proposed elevations demonstrate that the building would not have clear articulation or fenestration between stories on the street facing façade of the building. Staff recommends approval of this Type 2 Design Alternative since the proposed window pattern and material variation provides adequate visual interest.

F. Type 2 Design Alternative request for waiver of the required 7’ fence frontage buffer depth: Section 135-7.7.2.A of the Planning and Design Ordinance requires the fence frontage buffer to be at least 7 feet wide. The site plan proposes a 4-foot wide buffer. The applicant indicates that this is necessary for the parking spaces at the northern portion of the parking to be functional due to the irregular shape of the lot. While this 4-foot width is necessary at the northern end of the parking lot, Staff believes that the buffer would be widened along the southern portion of the parking lot since the lot is widen in this area. Therefore, Staff recommends approval of this Type 2 Design Alternative so long as the fence frontage buffer widens from 4 feet wide at the north end of the parking lot to 7 feet wide at the south end of the parking lot, and so long as a decorative fence is provided within this buffer that is parallel to the property line along East 9th Street.

G. Type 2 Design Alternative request for waiver of the metal fence as required by the fence frontage buffer fence: Section 135-7.7.2.B of the Planning and Design Ordinance requires a decorative metal fence within a fence frontage buffer. The applicant has indicated that they do not want to provide such a fence within the fence frontage buffer along East 9th Street so that they more space for the required landscaping given the proposed 4-foot width of the fence frontage buffer. Staff recommends denial of this Type 2 Design Alternative since it is the City’s desire to have fencing in between public sidewalks and parking lots whenever possible, specifically in the City’s core.
H. **Type 2 Design Alternative request for waiver of the required street trees:**

Section 135-7.5 of the Planning and Design Ordinance requires provision of street trees be provided along all streets. The applicant has requested waiver of this requirement since they desire to retain overhead utility lines. Staff recommends denial of this Type 2 Design Alternative, as it is possible to provide understory street trees under utility lines, even if the requirement to underground utilities is waived.

### III. STAFF RECOMMENDATION

Staff recommends denial of the proposed Type 2 Design Alternatives listed in Sections A, B, G, & H.

Staff recommends approval of the proposed Type 2 Design Alternatives listed in Sections C, D, and E, subject to the following conditions:

1. Any portion of any façade that is within 2 feet of grade shall consist solely of an approved major façade material.

2. The fence frontage buffer along East 9th Street shall taper from 4 feet wide at the north end of the parking lot to 7 feet wide at the south end of the parking lot.

3. The metal fence within the fence frontage buffer shall be parallel to the property line along East 9th Street.

### SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Kelsey Vetter 14225 University Avenue, Waukee Representing Farnsworth Group stated this is a 3-story building. When standing on the West side of the building the existing rooftop mechanicals are nonvisible and will remain nonvisible with the new rooftop mechanicals. They will be extending the walls on the South side of the building which will also screen the rooftop mechanicals. On the North side of the building they will be constructing an addition that will bring the building out closer to the street and also provide the screening of rooftop mechanicals. They originally planned for a roof screen but their structural engineer advised the structural integrity would be compromised due to the additional load from snow. They will be undergrounding the utilities that serve the building, all other utilities in this area haven’t been undergrounded. Mid-American did advise them undergrounding all utilities in this area would be extremely difficult and cause extra facilities to be needed until everything is changed to underground. The waiver of overstory trees would tie back into the undergrounding of utilities as they wouldn’t want issues with the trees reaching the overhead utility lines. Their goal is to differentiate the new addition from the old building utilizing stucco and fiber cement board. They also feel the addition of the fence with the plantings would be too busy and might cause maintenance concerns as they plantings grow. They would recommend a living fence by providing additional bushes or plants that would create a nice aesthetic and provide the necessary screening.
Joel Brinkmeyer 3410 Valley View Rd, Ames, IA CEO of the Agribusiness Foundation stated this building is owned by the Agribusiness Association that provides education for agribusiness and scholarships for people interested in making a living in agribusiness. They have never done a major renovation like this and have been in the planning process for many years. They are raising funds for this project through a capitol campaign which has raised 2 million dollars through contributions from agribusiness companies. They believe this 3-million-dollar project as it stands will improve the area that they are in.

Will Page asked what material will be used for the rooftop mechanical screening?

Kelsey Vetter stated a steel post with a steel panel placed on top of that.

Will Page asked what was meant by over the top?

Kelsey Vetter stated the screen would be the same height as the mechanical equipment. The steel post would connect to the roof joist and a ribbed metal panel placed between each of those posts.

Will Page asked if they have explored other design options?

Kelsey Vetter stated they have looked at a system that wouldn’t penetrate the roof but rather sit on top of the roof. Its more about the cost associated with reinforcing the structure of the existing roof.

Johnny Alcivar asked if they have considered placing the mechanicals on the ground?

Kelsey Vetter stated they have gone the direction of keeping it the way it is now.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jann Freed asked what the commission’s thoughts were around the 7-foot fence frontage buffer.

Greg Wattier stated he struggles with pushing the undergrounding of utilities on this applicant as no utilities are undergrounded in the area.

Will Page asked staff what resolution was made regarding undergrounding utilities at the American Legion to the West?

Bert Drost stated he doesn’t recall the specifics around the project.
Erik Lundy stated that request involved the waiver of installing the black light fixtures and utilities were underground in that area.

Greg Wattier stated he would support the waiver of Item B (replacement of street lights and undergrounding overhead utilities) but support compliance with code for Item A (rooftop mechanical screening). He also agrees with the applicant’s design and material and supports relief to Item E (building articulation and materials). Finally, he believes that if the overhead utilities remain, then the Item H (waiver of street trees) should be denied and the applicant should plant ornamental street trees.

**COMMISSION ACTION:**

Greg Jones made a motion for denial of the proposed Type 2 Design Alternatives listed in Sections A, G, & H and approval of the proposed Type 2 Design Alternatives listed in Sections B, C, D, E and F, subject to the following conditions:

**THE VOTE:** 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties).

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Item 5

Request from Edwin Allen (owner) for review and approval of a Public Hearing Site Plan Alternate Design Documentation for the following Type 2 Design Alternatives and denied Type 1 Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 2120 Ingersoll Avenue to allow redevelopment of the property with a 2-story, 5,212-square foot Storefront Type building for a Restaurant use in an “MX2” Mixed Use District. (10-2020-7.131)

A) Approval of a minimum primary frontage coverage of 23% where 90% is required by Sec. 135-2.5.3.A.2.

B) Approval of on-site parking within the side yard beyond the allowed limited side yard per Sec. 135-2.5.3.A.8.

C) Approval of a 2-story building in lieu of the required 3-story building per Sec. 135-2.5.3.B.10.

D) Waiver of the requirement of a primary entrance on the primary frontage façade per Sec. 135-2.5.3.D.20.

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to redevelop the site with a new two-story building and surface parking lot. 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:** 17,175 square feet (0.394 acres).
3. **Existing Zoning (site):** “MX2” Mixed-Use District.

4. **Existing Land Use (site):** The existing building is in the process of being demolished. The property has contained a variety of restaurant and bar uses.

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

6. **General Neighborhood/Area Land Uses:** The subject property is located on the southwest corner of the Martin Luther King, Jr. Parkway and Ingersoll Avenue intersection. The area contains a mix of commercial and multi-household residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Woodland Heights Neighborhood and within 250 feet of the Sherman Hill Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 11, 2020 and by mailing of the Final Agenda on September 25. Additionally, separate notifications of the hearing for this specific item were mailed on September 21, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

    All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Woodland Heights Neighborhood mailings were sent to Phil Kreznor, 808 25th Street, Des Moines, IA 50312. The Sherman Hill Neighborhood mailings were sent to Ryan Howell, 831 16th Street, Des Moines, IA 50314.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use within a Neighborhood 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, 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. Building Frontage: Section 135-2.5.3.A.2 of the Planning and Design Ordinance (City Code Chapter 135) requires Storefront Building to occupy 90% of the frontage along the primary street in the “MX2” District. The proposed building would occupy 23% of the property line along Ingersoll Avenue.
The subject property is shallow, sits at the foot of an embankment and is a corner lot with frontage on two major roadways. This leaves limited opportunity to place a building on the site while providing adequate space for parking and vehicular access. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

2. **Parking:** Section 135-2.5.3.A.8 of the Planning and Design Ordinance (City Code Chapter 135) requires on-site parking to be located in rear yards and interior side yards. By cross-reference, Note 3 in Section 135-2.5.3.E limits the side yard parking as follows:

   *Limited side yard parking is one double- or single-loaded aisle, with the centerline of the aisle perpendicular to the street, permitted in the interior side yard. Maximum width of a double-loaded aisle is 60 feet and 40 feet for single-loaded, measured along the right-of-way. Parking may be angled or head-in. Frontage Buffer is required per section 135-7.7 of this chapter.*

   The proposed parking arrangement consists of two (2), double-loaded aisles and does not comply with this standard. The subject property is shallow. As a result, a single double-loaded aisle would not provide adequate parking. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

3. **Building Height:** Section 135-2.5.3.B.10 of the Planning and Design Ordinance (City Code Chapter 135) requires Storefront Buildings to be a minimum three (3) stories tall in the "MX2" District. The applicant is proposing to construct a two-story building. The proposed building would be occupied by a single tenant, making the construction of a third floor less practical. Additional visual height has been added to the building through increased floor-to-ceiling heights and architectural detailing. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

4. **Primary Building Entrance:** Section 135-2.5.3.D.20 of the Planning and Design Ordinance (City Code Chapter 135) requires Storefront Building to have a primary entrance that faces the street. The primary entrance to the building would be located on a side façade, facing towards the parking lot. The front façade would have three (3) overhead doors on the main level that would be opened as weather permits. These openings would be separated from the public sidewalk by landscaping and would not provide egress to the building.

   The property is zoned “MX2” Mixed-Use District. The Zoning Ordinance describes Mixed-Use Districts as establishing "an appropriate mix of building forms and uses
to enhance existing and create new compact, walkable nodes and corridors throughout the city.” The code goes on to describe the “MX2” District as “intended for mixed-use, regional-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods.”

Providing entrances that directly face the street, within a short distance of the public sidewalk, is a significant contributor in creating a successful pedestrian environment. The proposed overhead doors would add a level of visual connection between the public realm and actively within the building. However, the amount of time the doors would be open would be limited by weather. Additionally, the desire of a future owner or business operator to use the overhead doors may vary from the applicant’s intentions.

The proposal is contrary to the goals of Plan DSM. Other development in the area has provided entrance that front Ingersoll Avenue while providing a second entrance that faces a parking area. The requested design alternative is not consistent with all relevant purpose and intent statements of Chapter 135 of the City Code or with the general purpose and intent of the comprehensive plan. Staff recommends denial of this Type 2 Design Alternative request.

5. **Additional Information:** Section 135-4.3.8.B.1 of the Planning and Design Ordinance (City Code Chapter 135) states that “garage doors are permitted on any street façade for patio access or open-air dining where such use is allowed under Chapter 134 of this Code” and that these doors “shall have a minimum transparency of 55% as measured between 2 and 8 feet.”

III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternatives to waive the minimum building frontage, on-site parking and building height standards.

Staff recommends denial of the requested Type 2 Design Alternative to waive the primary building entrance location requirement.

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

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

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

**SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.
Clark Snyder, 1717 Ingersoll Ave of Simonson and Associates representing the applicant, stated they would like reconsideration of a requirement for a primary entrance to the building off Ingersoll Avenue. They are providing a connection with a steel canopy that will continue around to the main entrance on the west façade and a connection to the rooftop stairs. Adding an entrance off Ingersoll will also cause a problem with flow based on the interior layout. They also have topography issues around the as the building sits 1.25 feet above the Ingersoll Streetscape sidewalk.

Greg Wattier asked for a 3-dimensional view of the canopy.

Kayla Berkson asked if the glass for the overhead doors will be clear or translucent?

Clark Snyder stated they will be clear.

Jann Freed stated this will be a great addition to that corner.

Greg Jones stated he would agree the canopy on the North side needs to be more defined.

Clark Snyder stated there will be a patio on the East side of the building to meet the ADA accessibility requirement and ¾ of the upper level will consist of a rooftop patio.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Doug Saltsgaver 2413 Grand Ave stated with the grade issues off Ingersoll they wouldn’t be able to make an ADA accessible entrance work as it sits now and not knowing if it will work with the elevations of the future Ingersoll Streetscape project.

Abby Chungath stated the garage doors seem to cause the same obstacles around elevation and security. She is curious why they aren’t windows if there are so many obstacles for a primary entrance to be placed there.

Doug Saltsgaver stated there will be a glass barrier at the bottom to prevent people from entering and exiting the building, it is more to allow fresh air into the building and for a better connection to the outside.

Carol Maher, 1510 Center Street asked what type of food will be served?

Clark Snyder stated it would be American fare cuisine.

Carol Maher asked if the retaining wall will be fixed?

Clark Snyder stated it will be replaced with a new retaining wall.

Carol Maher asked if the wooden stairs will be removed as well?

Clark Snyder stated the wooden stairs will be removed.
Carol Maher asked if the utilities poles will be removed?

Clark Snyder stated Mid-American Energy will be moving those poles to allow construction of this building and will underground the utilities as part of the Ingersoll Streetscape project in the spring of 2021.

Carol Maher stated an entrance off Ingersoll should be considered and suggested an entrance on the West side of the building for carry-out only. She also believes the more bike parking the better. There is an unsecured hole on the site and asked if that could be addressed.

Clark Snyder stated he would contact the contractor to make sure the hole is secure.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Clark Snyder stated if air rights could be granted, they could consider a more defined entrance off Ingersoll Avenue.

Greg Wattier stated the main entrance needs to be more defined and would suggest revision be made to the satisfaction of the planning administrator.

**COMMISSION ACTION:**

Greg Jones made a motion for approval of the requested Type 2 Design Alternatives to waive the minimum building frontage, on-site parking and building height standards, **APPROVAL** of the requested Type 2 Design Alternative to waive the primary building entrance location requirement if more defined to the satisfaction of the planning administrator and **APPROVAL** of the proposed Public Hearing Site Plan subject to the following:

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

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

c. Provision of a more defined building entrance or presence toward Ingersoll subject to the satisfaction of the Planning Administrator.

**THE VOTE:** 11-0-1 (Francis Boggus vote could not be confirmed due to audio difficulties).

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Committee and Director's Reports:

Mike Ludwig stated he has requested representatives from the Transportation Safety Committee and City Transportation staff to meet with the City Planning staff and members of the Planning Commission to discuss the sidewalk issues. The direction he sees this going is a discussion of alternative financial instruments that ensure the applicant’s participation in future sidewalk construction when waivers are requested, such as escrows, performance guarantees, etc. Asked that 2-3 members from the planning commission to be involved in the discussion.

Greg Jones stated he is willing to serve on the committee with Will Page.

Jann Freed stated she is also willing to serve if they want 3 members involved. Jann Freed later noted that Johnny Alcivar would serve in her place on the committee.

Mike Ludwig stated the City is in process of conducting interviews for the Economic Development Administrator and Planning Administrator. The Development Services Department will consist of Economic Development, Permit and Development Center, Planning and Urban Design and Neighborhood Planning. The Neighborhood Development Department will consist of Neighborhood Inspections Division Staff, Zoning Enforcement staff and the Federal Grants program staff.

Meeting adjourned at 8:00pm