The October 15, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 946 0493 6285.

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

**P&Z ABSENT:**

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

Carolyn Jenison made a motion to approve the October 1, 2020 Plan and Zoning Commission meeting minutes. Motion carried 12-0-2 (Lisa Howard and Steve Wallace abstained from the vote as they were not present for the October 1 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. Members of the public requested to speak regarding item #5.

Erik Lundy stated item #3 has been withdrawn.

Dory Briles made a motion to approve Consent Agenda Items #1, #2, #4 and #6. Motion carried 14-0.

Erik Lundy stated the applicants for items #7 and #12 have requested a continuance to the November 5, 2020 Plan and Zoning Commission Meeting.

Dory Briles made a motion for continuance of items #7 and #12 to the November 5, 2020 meeting. Motion Carried 14-0.

Mike Ludwig stated the applicant for item #11 has withdrawn their request.

**CONSENT AGENDA PUBLIC HEARING ITEMS**

**Item 1**

Request from Lin Investments, LLC d/b/a Teriyaki House Japanese Grill (owner) represented by Ye “Ken” Lin (officer) for review and approval of a Public Hearing Site Plan “Teriyaki Grille” 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 1014 East 14th Street to allow reconstruction of the existing on-site parking lot, within the front yard where required to be in the rear or side yard per Section 135-2.7.3.A.8, for a Restaurant use within a General Building Type in the “RX1” Mixed Use District.

(10-2020-7.122)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to reconstruct the on-site parking lot located within the front yard. Section 135-9.2.4.B requires parking lots to be located within the side or rear yard.

2. Size of Site: 10,800 square feet (0.248 acres).

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

4. Existing Land Use (site): Restaurant and surface parking lot in the front yard area.

5. Adjacent Land Use and Zoning:

   North – “MX1”; Use is dental office and surface parking lot in the front yard area.

   South – “RX1”; Uses are retail printing company, surface parking lot in the front yard area, and a vacant lot.

   East – “P1”; Uses are East 14th Street/IA Hwy 69 right-of-way and open space and athletic fields for East High School and Des Moines Public Schools.

   West – “NX1”, Uses are primarily single-household residential and a vacant lot.

6. General Neighborhood/Area Land Uses: The subject property is located on the southwest corner of the intersection of East 14th Street and Fremont Street.

7. Applicable Recognized Neighborhood(s): The subject property is in the Capitol Park Neighborhood and within 250 feet of the Martin Luther King, Jr. Park Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 8, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on October 5, 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 Development Services Department on the date of the mailing. The Capitol Park Neighborhood Association mailings were sent to Charice Williams, 1434 East 18th Street, Des Moines, IA 50316. The Martin Luther King Jr. Park Neighborhood Association mailings were sent to Chelsea Lepley, P.O. Box 1993, Des Moines, IA 50305.

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, 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. 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. Parking: Section 135-2.7.3.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 135-2.7.3.E limits the side yard parking as follows:

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

The proposed parking arrangement consists of one (1), double-loaded aisle and two (2), single-loaded aisles with the entirety of the proposed parking lot accessed from the non-primary frontage along Fremont Street and vacated via right-of-way access along East 14th Street. The proposed arrangement does not comply with the required standard.

Staff notes that the subject property is shallow with a pre-existing building located in the rear of the parcel. 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.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative for reconstruction of the on-site parking lot within the front yard subject to all administrative site plan review comments.

SUMMARY OF DISCUSSION

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

Dory Briles made a motion for approval of the requested Type 2 Design Alternative for reconstruction of the on-site parking lot within the front yard subject to all administrative site plan review comments.

THE VOTE: 14-0

Item 2

Request from Blank Park Zoo Foundation, Inc. represented by Anne Shimerdla (officer) for review and approval of the following for the Blank Park Zoo located in the vicinity of 7401 Southwest 9th Street:

A) 3rd Amendment to the Blank Park Zoo PUD Conceptual Plan to allow for addition of a new restroom and concession building with plaza within the Area “A”. (ZON2020-00122)

B) PUD Final Development Plan for “GoGo Plaza” to allow development of a 1,504-square foot concession and restroom building and surrounding plaza area. (10-2021-7.19)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to the PUD Conceptual Plan and the proposed PUD Development Plan would allow construction of a 1,504-square foot concession and restroom building and a surrounding plaza area. The proposed construction and zoo enhancements would be located internally to the zoo, just north of the prairie dog colony. These improvements would not be visible from public Right-of-Way.

2. Size of Site: 66.75 acres.

3. Existing Zoning (site): “Blank Park Zoo PUD” Planned Unit Development District.

4. Existing Land Use (site): Blank Park Zoo and off-street parking.
5. Adjacent Land Use and Zoning to Site of Amendment:

**North** – “P2” & “NX2”, Uses include the Fort Des Moines Historical National Landmark and the Fort Des Moines Residential Correctional Facility.

**South** – “P1”, Use is the Blank Golf Course.

**East** – “P1”, Use is the Blank Golf Course.

**West** – “N3a” & “NX2”, Uses include Southwest 9th Street and residential uses.

6. General Neighborhood/Area Land Uses: The subject property (Blank Park Zoo) is located along the east side of Southwest 9th Street to the south of Army Post Road.

7. Applicable Recognized Neighborhood(s): The subject property is not located within 250 of any neighborhood association. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 8, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 25, 2020 (20 days prior to the public hearing) and October 5, 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.

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

8. Relevant Zoning History: On July 23, 2012, the City Council rezoned the site to “PUD” District by Ordinance No. 15,121 and adopted the Blank Park Zoo PUD Conceptual Plan.

On June 21, 2015, the City administratively approved the 1st amendment to the PUD Conceptual Plan (ZON2015-00126), which allowed caretakers quarters so that caretakers and interns could overnight on the property.

On June 22, 2016, the City administratively approved the 2nd amendment to the PUD Conceptual Plan (ZON2016-00072), which allowed expansion of the giraffe house.

The City’s current Zoning Ordinance, which took effect on December 16, 2019, requires any amendment to a PUD Conceptual Plan to be reviewed by the Plan & Zoning Commission and City Council. No additional administrative amendments are allowed.
9. **PlanDSM Creating Our Tomorrow Designation:** The subject property is located within an area designated on the PlanDSM Future Land Use Map as Public/Semi-Public. The proposed “PUD” Conceptual Plan amendment and Final development site plan would not require this designation to be amended.

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the application, accompanying evidence and 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. After 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 Conceptual Plan:** The proposed amendment to the PUD Conceptual Plan is necessary for the PUD Development Plan to be found in conformance with the PUD regulations. The proposed amendment would allow construction of a 1,504-square foot concession and restroom building and a surrounding plaza area. The proposed enhancements to would be located internally to the zoo and would not be visible from public Right-of-Way. Staff recommends approval of the proposed amendment to the PUD Conceptual Plan.

   In order to minimize the need for future amendments to the PUD Conceptual Plan for minor improvements, such as the one currently under consideration, Staff recommends that a note be added to the PUD Conceptual Plan to state: “Any future modification within “Area A” that impacts less than 10,000 square feet of area shall not require an amendment to the PUD Conceptual Plan, but shall be in accordance with any required PUD Final Development Site Plan.”

2. **PUD Final Development Site Plan:** The proposed PUD Final Development Plan would be in accordance with the 3rd Amendment to the PUD Conceptual Plan. Staff recommends approval of the submitted “PUD” Final Development Plan “GoGo Plaza”, subject to compliance with all administrative review comments by the City’s Permit & Development Center and/or Site Plan Review Staff.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends approval the that the proposed 3rd Amendment to the Blank Park Zoo PUD Conceptual Plan, subject to provision of a note stating that any future modification within “Area A” that impacts less than 10,000 square feet of area shall not require an amendment to the PUD Conceptual Plan, but shall be in accordance with any required PUD Final Development Site Plan.
Part B) Staff recommends approval of the submitted “PUD” Final Development Plan “GoGo Plaza”, subject to compliance with all administrative review comments by the City’s Permit & Development Center and/or Site Plan Review Staff.

**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) APPROVAL the proposed 3rd Amendment to the Blank Park Zoo PUD Conceptual Plan, subject to provision of a note stating that any future modification within “Area A” that impacts less than 10,000 square feet of area shall not require an amendment to the PUD Conceptual Plan, but shall be in accordance with any required PUD Final Development Site Plan and Part B) APPROVAL of the submitted “PUD” Final Development Plan “GoGo Plaza”, subject to compliance with all administrative review comments by the City’s Permit & Development Center and/or Site Plan Review Staff.

**THE VOTE:** 14-0

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Item 3 - WITHDRAWN BY THE APPLICANT

Request from Wendell Day (owner) 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 416 East Park Avenue, in order to allow retention of an existing deck constructed within the front yard area that would be 41 feet less than the minimum required 47-foot calculated average front yard for a House Type C in the “N3b” Neighborhood District per Chapter 135 Section 135-2.15.3.A.3. (BLD2020-01392)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant has begun construction on a deck addition within the front yard area on the southern portion of the subject property. The applicant is requesting approval to retain the deck addition.

2. **Size of Site:** 23,175 square feet.

3. **Existing Zoning (site):** “N3b” Neighborhood District.
4. **Existing Land Use (site):** The property contains a one-household dwelling with detached garage.

5. **Adjacent Land Use and Zoning:**
   - **North** = “N3b”; Uses are one-household residential.
   - **South** = “N3b”; Uses are one-household residential.
   - **East** = “N3b”; Uses are one-household residential.
   - **West** = “N3b”; Uses are one-household residential.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Indianola Hills Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 8, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on October 5, 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 Development Services Department on the date of the mailing. The Indianola Hills Neighborhood Association mailings were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

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.

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

House Type C Front Setback: Section 135-2.15.3.A.3 of the Planning and Design Ordinance states the required front setback for a House Type C building is a minimum of 25 feet or the average front setback of the two parcels on either side of the subject property. The average front setback for the subject property is 47 feet.

The Chapter 135 definition of yard, exempts obstructions of less than 36-inches in height from meeting front yard setback requirements. The applicant was issued a
building permit to construct a 672 square feet deck in the front yard on the basis that proposed deck would be less than 36 inches in height. Upon inspection, the proposed deck was found to be greater than 36 inches in height.

The pre-existing building on the property is only setback 20 feet from the front lot line which is 57% less than the average front yard setback of 47 feet. The deck extends 14 feet in front of the existing house and is 6 feet from the front lot line which is 87% less than the average front yard setback of 47 feet and increases the extent of the pre-existing situation. The applicant was informed that the deck was in violation of required setbacks and they have elected to seek a Type 2 design alternative to allow retention of the deck.

The Park Avenue right-of-way is 65-feet wide in front of the subject property. The roadway surface is not centered within the right-of-way. Therefore, while the deck is setback 6 feet from the front lot line, it is setback 21 feet from the Park Avenue sidewalk and 31’ feet from the back of curb along Park Avenue.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to allow retention of a deck that is setback 6 feet from the front lot line.

SUMMARY OF DISCUSSION

Erik Lundy stated item #3 has been withdrawn.

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Item 4

Request from Highland Park Apartments, LLC (owner) represented by Tim Bratvold (officer) for the following regarding the property at 622 Euclid Avenue:

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Low Medium Density Residential within a Neighborhood Node to High Density Residential within a Neighborhood Node. (21-2020-4.22)

C) Rezone property from “NX1” Neighborhood Mix District to “NX2” Neighborhood Mix District to allow the existing multiple-household dwelling to be used for 10 household living units. (ZON2020-00117)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing building. The proposed land use plan amendment and rezoning would allow two (2) additional dwelling units to be created within the existing building. Staff understands that additional units are needed to make the project financially viable.

2. Size of Site: 50 feet by 132 feet (6,600 square feet or 0.152 acres).

3. Existing Zoning (site): “NX1” Neighborhood Mix Use District.

4. Existing Land Use (site): The property contains a multiple household residential building.

5. Adjacent Land Use and Zoning:
   - North – “MX1” & “NX1”; Uses are office and one household residential.
   - South – “N5”; Uses are one household residential.
   - East – “NX1”; Use is a two-household dwelling.
   - West – “NX1”; Use is a one household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located on the south side of Euclid Avenue to the west of the 6th Avenue intersection. The area contains a mix of residential use at the western edge of a commercial district that is based at the 6th Avenue intersection.

7. Applicable Recognized Neighborhood(s): The subject property is in the Oak Park Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 25, 2020 (20 days prior to the hearing) and October 5, 2020 (10 days prior to the hearing) to the Oak Park 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 Oak Park Neighborhood Association mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. Relevant Zoning History: N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low-Medium Density Residential 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 “Low-Medium Density Residential” in a “Neighborhood Node” to “High Density Residential” in a “Neighborhood Node.” Plan DSM describes these designations as follows:

   **Low-Medium Density Residential:** Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.

   **High Density Residential:** Areas developed with primarily higher intensity multi-family residential with a minimum density over 17 units per net acre.

   **Neighborhood Node:** These nodes are the smallest in size and offer services that provide for basic daily needs of the local population in the surrounding neighborhood. May include restaurant, shops and small-scale businesses. Residential development including low-medium and medium densities may occur.

The subject property is currently zoned “NX1” District. The Zoning Ordinance describes this district as “intended for a mix of single- and smaller-scaled multiple-household uses and building forms to preserve the scale and character of the existing neighborhood while allow for new infill housing.” Building types allowed in this district by Chapter 135 include the Civic Building, Row Building, House C and House D.

The “NX1” District allows up to eight (8) household units per lot. The proposed Future Land Use Map amendment and rezoning to the “NX2” District are necessary to add two (2) additional units to the building. The Zoning Ordinance describes this district as “intended for a mix of single-household houses with appropriately scaled and detailed multiple-household building types in the same neighborhood. Building types allowed in this district by Chapter 135 include the Civic Building, Flat Building, Row Building and House D.
The subject building is located on the Euclid Avenue corridor, which is a transit route and carries a significant amount of traffic. It is located near the 6th Avenue and Euclid Avenue commercial node. Staff believes that the character of the area supports the proposed Land Use Plan amendment and rezoning.

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 proposed expansion of the residential use will require a site plan and for the site to be brought into conformance current standards.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “NX2” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low-Medium Density Residential.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low-Medium Density Residential within a Neighborhood Node to High Density Residential within a Neighborhood Node.

Part C) Staff recommends approval of rezoning the subject property from “NX1” Neighborhood Mix Use District to “NX2” Neighborhood Mix 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:

Dory Briles made a motion for approval of Part A) the proposed rezoning to “NX2” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low-Medium Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low-Medium Density Residential within a Neighborhood Node to High Density Residential within a Neighborhood Node and Part C) **APPROVAL** of rezoning the subject property from “NX1” Neighborhood Mix Use District to “NX2” Neighborhood Mix Use District.

**THE VOTE:** 14-0
Item 6

Request from Des Moines Cold Storage (owner) represented by CJ Morton (officer) for review and approval of an amendment to the previously approved PUD Final Development Plan for “Phase IA of Des Moines Cold Storage” for property located at 3805 Vandalia Road, to allow a 62,680-square foot addition to the existing refrigerated warehouse building, with waiver of the previously approved installation of public sidewalk along the Vandalia Road frontage.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: Waiver of the previously approved installation of public sidewalk along the Vandalia Road frontage.

2. Size of Site: Approximately 43.17 acres for the area owned by Des Moines Cold Storage. The original Vision Fuels PUD area was approximately 165 acres. This was reduced to approximately 135 acres when a portion was sold to Helena Industries, Inc. to the west and rezoned to “M-2” Heavy Industrial District in 2013.


4. Existing Land Use (site): Des Moines Cold Storage refrigerated warehouse. The undeveloped portion of the site is currently used for agricultural production. Approved Phase 1A addition is under construction.

5. Adjacent Land Use and Zoning:

   North – “EX”, Uses include salvage yards and undeveloped land.

   South – “EX”, Uses include above ground petroleum storage for Magellan Pipeline and Solar Transport petroleum trucking facility.

   East – “I-3” (City of Pleasant Hill), Use is Oneok natural gas utility facilities.

   West – “I2”, Uses are Helena Industries, Inc. chemical processing and distribution.

6. General Neighborhood/Area Land Uses: The subject property is located south of Vandalia Road in an area designated as the Agrimergent Business Park just west of the Highway 65/69 bypass.

7. Applicable Recognized Neighborhood(s): The subject property is not located in a recognized neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on October 5, 2020 (10 days prior) to the neighborhood
associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

8. Relevant Zoning History: On May 23, 2005, the subject property was rezoned by Ordinance 14,451 from “M-2” Heavy Industrial District to “M-1” Light Industrial District.

On November 11, 2007 the City Council adopted Ordinance No. 14,726 approving rezoning of approximately 165 acres from “M-1” Light Industrial District to “PUD” Planned Unit Development along with the adoption of the Vision Fuels PUD Conceptual Plan for development of an ethanol fuel plant.

On June 24, 2013 the City Council adopted Ordinance No. 15,202 which rezoned the western 30 acres from “PUD” Planned Unit Development to “M-2” Heavy Industrial District.

On July 27, 2015, the City Council approved the First Amendment the Vision Fuels PUD Conceptual Plan to allow development of an approximately 42-acre portion of the property for light manufacturing of electrical components within an initial phase of a 182,000-square foot office/production facility that could be expanded to 286,000 square feet, and a 250,000-square foot second phase building.

On June 13, 2016, the City Council approved the Second Amendment the Vision Fuels PUD Conceptual Plan for the development of an approximately 43.17-acre portion of the property for refrigerated warehousing and distribution with an initial phase of an approximately 111,000-square foot office/refrigerated storage/distribution facility that could be expanded by 244,000 square feet and a future phase up to 400,000 square feet.

On April 8, 2018, the City Council zoned an additional 48.49 acres immediately west of the subject property from “PUD” Planned Unit Development to “M-2” Heavy Industrial District for Helena Industries.

On March 23, 2020 the City Council approved the PUD Final Development Plan “Phase 1A of Des Moines Cold Storage” for development of a 62,680-square foot addition to the existing refrigerated warehouse building.


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

1. **Traffic/Street System:** When the Plan and Zoning Commission considered the approved PUD Final Development Plan on March 5, 2020, there was not discussion with regard to the installation of public sidewalk with the “Phase 1A” addition at either the Commission or City Council considerations. It was requirement of the administrative review to install and the PUD Final Development was approved on the condition of compliance with all administrative review comments.

The developer has resubmitted the PUD Final Development Plan for amendment to remove the sidewalk. Vandalia Road is determined to be a priority level 3 street for provision of public sidewalk within the MoveDSM Plan. This guidance is the lowest level of priority for provision of sidewalk along public streets.

Staff has had discussions with Des Moines Area Regional Transit (DART) to determine if there is demand for pedestrian connection to transit stops along Vandalia Road. At this time there is not a transit route along Vandalia Road. While there is some desire for provision of transit services in the future by some of the major employers in the area such as Kemin Industries, Helena Industries, and Des Moines Cold Storage, funding for additional routes and expansion of this service to this area is yet to be identified. There is a project identified in the Mobilizing Tomorrow Regional Transportation Plan, LRTP# 607 in the 2035-2050 timeframe, which is to widen Vandalia Road from two to three lanes. At the time of this project, public sidewalks would be incorporated.

Staff believes in the interim, should transit service be extended to Vandalia Road adjoining the subject property, then the developer should install the public sidewalk along the developed frontage at that point in time including any necessary infrastructure for any transit stop located along the frontage.

III. STAFF RECOMMENDATION

Staff recommends approval of the submitted PUD Final Development Plan amendment waiving the installation of sidewalk with the condition, that sidewalk would be installed by the owner at any such time transit service is extended to Vandalia Road in front of the property should that be prior to installation of sidewalk with any public street project for Vandalia Road.

**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 the submitted PUD Final Development Plan amendment waiving the installation of sidewalk with the condition, that sidewalk would be installed by the owner at any such time transit service is extended to Vandalia Road.
in front of the property should that be prior to installation of sidewalk with any public street project for Vandalia Road.

**THE VOTE: 14-0**

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(Will Page left the meeting at 6:20pm)

**NON-CONSENT AGENDA PUBLIC HEARING ITEMS**

**Item 5**

Request from Fareway Stores, Inc. (owner) represented by Koby Pritchard (officer) for the following regarding the property at 2716 Beaver Avenue:

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

B) Rezone property from “MX1” Mixed Use District to “MX3” Mixed Use District to allow redevelopment of the property with a 7,759-square foot Retail Sales, Limited use with the ability to request a Conditional Use for a business that sells alcoholic liquor.

(ZON2020-00118)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to develop a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs. The proposed business model would include sale of packaged liquor, wine and beer. The submitted site sketch and building elevation concepts indicate that the developer is proposing a Storefront Building Type with a drive-through window on the south façade.

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

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

4. **Existing Land Use (site):** Vacant building formerly used for financial service with accessory drive-through access.

5. **Adjacent Land Use and Zoning:**
North – “MX1”; Uses are Limited Retail Sales and a Restaurant.
South – “MX1”; Uses are Limited Retail Sales stores and a Restaurant.
East – “MX1”; Use is Limited Retail Sales store.
West – “N4; Uses are One Household Living dwellings.

6. General Neighborhood/Area Land Uses: The subject property is in a mixed-use node on the Beaver Avenue corridor where it intersects with Urbandale Avenue. It contains a mix of Commercial uses surrounded by mixed densities of Residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Beaverdale Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 25, 2020 (20 days prior to the hearing) and October 5, 2020 (10 days prior to the hearing) to the Beaverdale 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 Beaverdale Neighborhood Association notices were mailed to Marcus Coenen, PO Box 30175, Des Moines, IA 50310.

8. Relevant Zoning History: The subject property was zoned to “MX1” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.


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 “Community Mixed Use” within a Neighborhood Node. 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.

In general, liquor sales would require a Conditional Use that could be approved by the Zoning Board of Adjustment in the “MX3” Mixed Use District that would be found consistent with “Community Mixed Use”. Based on this designation, the proposed “MX3” District zoning would 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 rezoning 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 west, 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 fuel station functions. This 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 be limited to only Drive-Through Facility and 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 nearby to the west. It should be noted that based on Chapter 134 Section 134-3.8.1.C.3.d, liquor, wine or beer may not be dispensed made through a drive-through window.
2. **Planning and Design Ordinance**: Any redevelopment 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. Staff support of the proposed rezoning should not be construed as support for future variance or conditional use applications to the Zoning Board of Adjustment.

III. **STAFF RECOMMENDATION**

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

Part B) 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 subject to approval of a Conditional Use by Zoning Board of Adjustment 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 Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

**SUMMARY OF DISCUSSION**

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

**Koby Pritchard** 715 8th Street Boone, IA representing Fareway Stores stated this would be their fifth meat market location with this being their first in Des Moines. The market in Beaverdale has been on their radar for ten-plus years and have been waiting for the right opportunity to bring this concept to the neighborhood. They want to provide a 7,800-square foot concept that will focus on their meat market and provide a wide variety of other groceries as well. They will also provide prepared foods with a courtyard area where people will be able to sit down and eat.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

**Kimberly Boggus** 1713 45th Street stated the Beaverdale Neighborhood Association has spoken at great lengths around this project and is in support. They do have neighbors that are concerned about this new concept not fitting in with the 1930’s architecture that already exists.

**Jay Cox Kozel** 2108 36th Street stated this project will be a great addition and any concerns can be remedied as Fareway has been very engaged with adjoining
businesses and the Beaverdale Neighborhood Association. They are very excited to get this project moving forward.

Tim West 2727 Southwest Snyder Blvd representing Snyder and Associates asked if there will be any parking restrictions within the MX3 zoning district?

Jason Van Essen stated staff isn’t requesting any conditions that would impact parking at this time. Parking would be something staff looks at during the site plan review and any relief needed would go through the Plan and Zoning commission.

Dave Clark, owner of Uptempo Music Store located at 2714 Beaver Avenue, stated that he is concerned that four off-street parking stalls will be lost due to the proposed Fareway driveway location. He is concerned about visibility at the intersection and the loss of parking affects all businesses.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Koby Pritchard stated at this stage, it is only a concept. They want to collect as much feedback as they can around what people want to see and be able to incorporate all they can.

Koby Pritchard stated they are trying to figure out how to keep 2 of the on-street parking spaces and open to ideas on how to do that.

Tim West stated they are extending a driveway return along the South which would be close to the property line. Their main concern is to preserve the mural while trying to maintain balance in traffic flow. They will not be impacting the stalls on the North but will impact the stalls to the South. They will continue to look at this issue and hopefully find a solution by the time the site plan is reviewed.

Francis Boggus stated as a resident of the Beaverdale Neighborhood he is excited about Fareway and applauds them for their engagement with the neighborhood association and surrounding businesses.

Greg Wattier stated he is also in favor of this rezoning but does have some concerns that can be addressed when they review the site plan.

**COMMISSION ACTION:**

Greg Wattier made a motion for approval of Part A) the proposed rezoning to “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) **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 subject to approval of a Conditional Use by Zoning Board of Adjustment 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 Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

THE VOTE: 13-0

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Item 7

Review and approval of items regarding the Market District 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) City initiated 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) City initiated amendment to Section 135-2.18 of the City Code to revise regulations regarding applicability of Design Alternatives for maximum height requirements within the Capitol Dominance Area. (10-2020-5.03)

C) Determination as to whether the developer initiated Large Scale Development plan and city initiated rezoning are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

D) Developer initiated 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)

E) City initiated request to 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

1. Purpose of Request: The City Council initiated the requested rezoning to allow for more intensive, sustainable and smart redevelopment of the Market District area of
the Historic East Village in the east Downtown. The proposed rezoning along with the accompanying Large-Scale Development Plan and text amendment to Chapter 135 Section 134-2.18 would provide more flexibility in building heights while still protecting important views toward and from the State Capitol Building. The Large-Scale Development Plan would also provide the framework for a street network that would improve the circulation grid and encourage multi-modal movement through the district. This would seek to implement the intentions of the Market District of the East Village Master Plan by becoming a component of the element of the PlanDSM Creating Our Tomorrow Plan.

2. **Size of Site:** Approximately 41 acres.

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

4. **Existing Land Use (site):** The area is developed with a variety of public, industrial, and commercial uses and buildings.

5. **Adjacent Land Use and Zoning:**
   - **North** – “DX2” & “P2”; Uses are public, industrial, commercial and residential.
   - **South** – “DX2”; Uses are industrial, commercial and residential.
   - **East** – “DX2”; Uses are industrial, commercial and residential.
   - **West** – “F”; Uses are riverfront, river levee and the Des Moines River.

6. **General Neighborhood/Area Land Uses:** The subject property is in a mixed-use area of the east Downtown in the lower Historic East Village area known as the Market District. It contains a mix of public, industrial, commercial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. The neighborhood association was notified of the original August 20, 2020 public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda for the October 15, 2020 meeting on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 31, 2020 (20 days prior to the original August 20, 2020 public hearing) and on August 10, 2020 (10 days prior to the original August 20, 2020 public hearing) to the Historic East Village Neighborhood 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 Historic East Village Neighborhood Association notices were mailed to Taylor Frame, PO Box 93904, Des Moines, IA 50393.
City Staff conducted a neighborhood outreach meeting via ZOOM teleconference on August 12, 2020. The meeting included participation by property owners within the area and within 250 feet of the area.

8. **Relevant Zoning History:** The subject property was zoned to “DX2” Downtown District as part of the citywide Zoning Ordinance and Map update effective on December 15, 2019.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown Mixed Use within the Downtown 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 along with amendments to the Comprehensive Plan 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.

    Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews proposed Large Scale Development Plans per Chapter 135 Article 5 of the City Code. The recommendation of the Commission regarding the Large-Scale Development Plan will be forwarded to the City Council in this instance.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The subject area is designated “Downtown Mixed Use”. Plan DSM describes this designation as follows:

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

   Staff believes the proposed rezoning and Large-Scale Development Plan is appropriate given the location of the subject property within the Downtown Regional Node.

2. **Capitol Dominance Provision of Chapter 135 Planning and Design Ordinance:** Any redevelopment must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The current provisions of Chapter 135 Section 135-2.18 lay out limitations for protection of the Capitol Dominance Area. The current provisions set a Maximum Building Height within the defined area at 75 feet. Type 2 Design Alternative consideration may be
given to exceed that building height with a provision of a detailed architectural and
viewshed analysis.

The proposed text amendment to Chapter 135 Section 135-2.18 adds a provision for consideration of a Type 1 Design Alternative to exceed the 75-foot Building Height Maximum in instances where a Large-Scale Development Plan has been previously approved, where the building types and uses consistent with those shown in said approved Large-Scale Development Plan, and where the requested relief from Maximum Building Height limitation does not exceed the proposed heights specified and shown in said approved Large-Scale Development Plan.

Staff would consider proposed buildings exceeding the Maximum Building Height as part of a Site Plan and review it against the limitation in the Large-Scale Development Plan. The developer would still have the ability for consideration of buildings that would exceed those heights in the Large-Scale Development Plan, or administrative denial of a Type 1 Design Alternative, with a Type 2 Design Alternative. Staff recommends that a legally described maximum height plane for the view corridor identified in the Large-Scale Development Plan also be considered a limitation of the City Council initiated rezoning.

3. Large-Scale Development Plan: The submitted Large-Scale Development Plan was prepared by a private developer working in close coordination with the City Staff over the past several months and accompanies the proposed City Council initiated rezoning. The Plan provides a master concept for the proposed redevelopment area and gives projected land uses, projected layouts of block areas and the street network, proposed infrastructure and utilities, and projected street sections showing more detail of the proposed green infrastructure to be installed with public improvement plans. The “DXR” District Zoning west of Southeast 2nd Street would provide the flexibility for Private Outdoor Sports and Recreation Use near the riverfront.

This Plan will aid and inform an anticipated Preliminary Subdivision Plat reconfiguring the block and street layout for the area as well as the accompanying public improvement plans and Site Plans. This includes the segment of Raccoon Street and perpendicular alley Right-Of-Way proposed for vacation. This specific vacation would allow for a large redevelopment block. Other areas previously occupied by City Public Works and MidAmerican Energy yards will now be opened up by re-establishing a grid-like public street network.

Because there are streets on the periphery with adjoining property not immediately proposed for redevelopment, the City is also proposing that the Large-Scale Development Plan become an amendment to the PlanDSM Creating Our Tomorrow Plan. This would then guide consideration of other future redevelopment proposals and platting and provide continuity with the area proposed for development in the near term. One specific example of this would be the continued extension of the green infrastructure into the adjoining street network.

The Plan also includes projected maximum heights for buildings in each development block as well as providing a description of the viewshed projection area for a view of
the State Capitol from home plate at Principal Park. The private developer and City Information Technology have coordinated to provide a form model for the redevelopment in the area and identifies the view corridor to be protected. This has provided enough detailed data to provide a legal description of the plane for the maximum height of the view protection corridor.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the City initiated 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.

Part B) Staff recommends approval of the City initiated amendment to Section 135-2.18 of the City Code to revise regulations regarding applicability of Design Alternatives for maximum height requirements within the Capitol Dominance Area.

Part C) Staff recommends the developer initiated Large Scale Development plan and city initiated rezoning be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part D) Staff recommends approval of the developer initiated Large-Scale Development Plan for the area, and adoption of it as a revision to the Market District of the East Village Master Plan element of PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part E) Staff recommends approval of City initiated request to 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 with the limitation of a Maximum Height for Buildings that is legally described based on the view corridor model established by the Large-Scale Development Plan.

SUMMARY OF DISCUSSION

Erik Lundy stated the applicant for item #7 has requested a continuance to the November 5, 2020 Plan and Zoning Commission Meeting.

COMMISSION ACTION:

Dory Briles made a motion for continuance of item #7 to the November 5, 2020 meeting.

THE VOTE: 14-0
Item 8

Request from Drake University (owner) represented by Michelle Huggins (officer) for the following in the vicinity of 2421 Forest Avenue.

A) Vacation of 25th Street between Clark Street and Forest Avenue and the north/south alley in the block bounded by Clark Street, 24th Street, Forest Avenue and 25th Street.  (11-2020-1.12)

B) Determination as to whether the requested rezoning and amendment to the Drake University Recreation PUD Conceptual Plan is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

C) Amend the PlanDSM Creating Our Tomorrow Comprehensive Plan future land use designation from Neighborhood Mixed Use and Low Density Residential to Public/Semi-Public.  (21-2020-4.23)

D) Amend the Drake University Recreation PUD Conceptual Plan to remove approximately 2.84 acres to be rezoned to “P2” Public, Institutional and Civic District.

E) Rezone property from “PUD” Planned Unit Development District, “RX1” Mixed Use District and “N5” Neighborhood District to “P2” Public, Institutional and Civic District to allow for development of a 4,000-seat multi-purpose stadium to be jointly operated for the Des Moines Public Schools use for athletic competition.  (ZON2020-00119)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation of street and alley Right-of-Way would allow Drake University to assemble a 4.3-acre parcel. The proposed rezoning and amendment to the Drake University Recreation “PUD” Conceptual Plan would allow development of an approximate 4,000-seat multi-purpose stadium to be jointly operated for the Des Moines Public Schools use for athletic competition. The stadium would be located immediately east of the Knapp Center and the Shivers Basketball Practice Facility.

2. Size of Site: The area being impacted generally measures 400 feet by 470 feet (4.3 acres).

4. **Existing Land Use (site):** The site contains open space, a parking lot containing 125 parking stalls, and undeveloped lots.

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

   **North** – “P2” & “N5”, Uses is the Drake University tennis facility and one-household dwellings owned by Drake University.

   **South** – “Drake University Recreation PUD”, Use is a parking lot on the Drake University campus.

   **East** – “University Station PUD”, Use is a United State Post Office.

   **West** – “Drake University Recreation PUD”, Use is the Knapp Center and Shivers Basketball Practice Facility.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the north side of Forest Avenue at the northeastern corner of Drake University’s campus.

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 25, 2020 and the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on September 25, 2020 (20 days) and October 5, 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 Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

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

8. **Zoning History:** On April 22, 1991, the City Council adopted Ordinance No. 11,654 to rezone 25 acres of the Drake University campus for future athletic facility development including the Knapp Center.

   The 2nd amendment was granted by City Council on November 18, 2013 (Roll Call 13-1843) and allowed for construction of a basketball practice facility (Shivers Center) along the east side of the Knapp Center.
The 3rd amendment was granted administratively on December 22, 2017 (Docket ZON2017-00217) to allow beer and wine sales throughout the Knapp Center and Shivers Center.

The 4th amendment was granted by the City Council on July 13, 2020, to allow construction of a new sign in front of the Knapp Center (arena).


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

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. After 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.

### III. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities**: There are public water and sanitary sewer mains within the requested segment of 25th Street Right-of-Way. Easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the applicant’s expense.

2. **PlanDSM Land Use Plan Designation**: The proposed zoning to “P2” District requires the future land use designation for the two (2) lots along the north side of Forest Avenue to be revised from Neighborhood Mixed Use to Public/Semi-Public. In addition, the applicant is using this opportunity to revise future land use...
designation for the portion of the remaining "PUD" Conceptual Plan that is north of Clark Street from Low Density Residential to Public/Semi-Public. Both of these revisions are appropriate given the underlying university campus uses.

3. **“Drake University Recreation PUD” Conceptual Plan:** If the rezoning to remove approximately 2.84 acres from the “Drake University Recreation PUD” District is approved, the applicant must submit to the City a revised version of the “PUD” Conceptual Plan on mylar material. It must be revised to eliminate the area that is being rezoned to “P2” Public, Institutional and Civic District and must be revised to provide final a count of off-street parking space provided within the boundaries of the remaining “PUD” District.

4. **Conditional Use Approval:** Any future use of the property for an Assembly or Entertainment use would require a Conditional Use Approval by the City’s Board of Adjustment. The Board of Adjustment cannot consider such a request until such time that the property is rezoned to “P2” Public, Institutional and Civic District.

5. **Site Plan Requirements:** Any future development upon the site must be in accordance with a Site Plan as reviewed and approved by the City’s Permit & Development Center. A Site Plan has not been submitted for review at this time. The Site Plan will ensure that any development complies with all City requirements, including, but not limited to, stormwater management, landscaping, off-street parking, and building design guidelines.

6. **Off-Street Parking:** Construction of any assembly or entertainment use, such as a stadium, would require provision of at least one (1) off-street parking space per six (6) seats. Thus, a 4,000-seat stadium would require provision of 667 parking spaces. In accordance with City Code Section 135-6.6.4, off-street parking spaces required for a non-residential use can be provided off-site within a 750-foot radius of the use served by such parking. If the off-site parking area is under separate ownership, then an agreement guaranteeing the long-term availability parking must be filed with the County Recorder’s Office.

The Traffic Impact Study that was required prior to submittal of rezoning applications provides an analysis of existing off-street parking in the area. While an existing 125-stall parking lot would be eliminated by the construction of a stadium, there would still be five (5) off-street parking lots generally within 750 feet of the site that provide a cumulative 814 off-street parking spaces. Thus, while off-street parking requirements will be fully evaluated during the Site Plan review, it is anticipated that the required off-site parking spaces could be provided.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the request to vacate the segment of 25th Street between Clark Street and Forest Avenue and to vacate the north/south alley in the block bounded by Clark Street, 24th Street, Forest Avenue, and 25th Street, subject to provision of easements for any utilities that may exist until such time that they are abandoned or relocated at the applicant’s expense.
Part B) Staff recommends that the Commission find the requested rezoning and amendment to the Drake University Recreation “PUD” Conceptual Plan is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates a portion of the area as Low Density Residential.

Part C) Staff recommends approval of the request to amend the PlanDSM Creating Our Tomorrow Comprehensive Plan future land use designation from Neighborhood Mixed Use and Low Density Residential to Public/Semi-Public.

Part D) Staff recommends approval of the request to amend the Drake University Recreation “PUD” Conceptual Plan, to remove approximately 2.84 acres to be rezoned to “P2” Public, Institutional and Civic District, subject to the following conditions:

1. The “PUD” Conceptual Plan shall be revised to eliminate the area that is being rezoned to “P2” Public, Institutional and Civic District.

2. The “PUD” Conceptual Plan shall be revised to provide a final count of off-street parking space provided within the boundaries of the remaining “PUD” District.

Part E) Staff recommends approval of the request to rezone property from “PUD” Planned Unit Development District, “RX1” Mixed Use District, and “N5” Neighborhood District, to “P2” Public, Institutional and Civic District.

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Matt Coen 301 Grand Ave representing RDG stated they are available for questions and would request the discussion remain around the rezoning and vacation as presented by City staff.

CHAIRPERSON OPENED THE PUBLIC HEARING

Rick Dressler 1916 27th Street stated he is opposed to the closing of 25th street between Forest and Clark. This would have a major impact to their neighborhood as parking is already starting to become an inconvenience with Drake stadium and other nearby facilities being used for Sporting and Political events. 25th Street is important for access North for the neighborhood and Drake would be better served with a parking garage South of Forest Avenue. The increase in traffic will also impact the peace and quiet they have in the neighborhood.

Dan Pardock 4118 Lower Beaver Road stated he has concerns with the amount of traffic coming to the neighborhood with the sporting events that are scheduled to take place in the spring and fall. With DMPS being under litigation, he would hate to see
Drake, City of Des Moines or DMPS end up with an empty plot of land or a half-built stadium.

Karinne Harmon 1543 27th Street stated she also has traffic concerns during large events as people park wherever they please.

Matt Coen stated they will take these comments under advisement. Drake University has already begun strategizing around not overloading the new venues during season and a night by night basis. Drake can provide the required number of parking spaces within a 750 foot radius of the facility. Additional parking is available within a ¼ mile radius of the facility.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier asked if they’ve had any public engagement with the Drake Neighborhood Association or plan to in the future?

Matt Coen stated they met with the Neighborhood Association on September 9th to present the project and provided month by month updates to the board as well.

Michelle Huggins 1535 Germania Drive stated notices to adjoining neighbors and the Drake Neighborhood Association have been completed to date and will continue to provide month by month updates during the Drake Neighborhood board meetings.

Greg Wattier stated he would encourage engagement sessions with the neighborhood, rather than showing up at a monthly board meeting.

COMMISSION ACTION:

Rocky Sposato made a motion for approval of Part A) APPROVAL of the request to vacate the segment of 25th Street between Clark Street and Forest Avenue and to vacate the north/south alley in the block bounded by Clark Street, 24th Street, Forest Avenue, and 25th Street, subject to provision of easements for any utilities that may exist until such time that they are abandoned or relocated at the applicant’s expense, Part B) the Commission find the requested rezoning and amendment to the Drake University Recreation “PUD” Conceptual Plan is NOT in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan, which designates a portion of the area as Low Density Residential, Part C) APPROVAL of the request to amend the PlanDSM Creating Our Tomorrow Comprehensive Plan future land use designation from Neighborhood Mixed Use and Low Density Residential to Public/Semi-Public, Part D) APPROVAL of the request to amend the Drake University Recreation “PUD” Conceptual Plan, to remove approximately 2.84 acres to be rezoned to “P2” Public, Institutional and Civic District, subject to the following conditions:

1. The “PUD” Conceptual Plan shall be revised to eliminate the area that is being rezoned to “P2” Public, Institutional and Civic District.
2. The “PUD” Conceptual Plan shall be revised to provide a final count of off-street parking space provided within the boundaries of the remaining “PUD” District.

Part E) **APPROVAL** of the request to rezone property from “PUD” Planned Unit Development District, “RX1” Mixed Use District, and “N5” Neighborhood District, to “P2” Public, Institutional and Civic District.

**THE VOTE:** 11-2 (Francis Boggus and Greg Jones voted in opposition)

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**Item 9**

Request from First Baptist Church of Urbandale, Iowa, Inc. (owner) represented by Pastor Daniel McCoy (officer) for review and approval of a Public Hearing Site Plan “First Baptist Church” 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 3020 East 38th Street to allow construction of a Workshop/Warehouse Building Type in the “P2” Public, Institutional, and Civic District for office and accessory bus garage functions to a proposed Place of Worship principal use of the site, and on-site parking expansion within the east front yard of the existing Civic Building used for Place of Worship: (10-2020-7.132)

A) Allow expansion of the existing on-site parking lot, within the front yard where required to be in the rear or side yard for a Civic Building Type per Section 135-2.10.3.A.8.

B) Waiver of the requirement of a primary entrance on the primary frontage façade along Hull Avenue per Sec. 135-2.9.3.D.18.

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** Construction of a new building on-site of the existing Place of Worship use. The building is proposed as a Workshop/Warehouse Type and would house offices and a bus garage as part of the primary Worship Assembly use of the property.

2. **Size of Site:** 1.61 acres.

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

4. **Existing Land Use (site):** Place of Worship Civic Building with accessory bus storage out-building.
5. **Adjacent Land Use and Zoning:**

   **North** – “N3a”; Uses are One Household Living dwellings.
   **South** – “RX1” & “N3a”; Uses are Day Care and One Household Living dwellings.
   **East** – “N3a”; Uses are One Household Living dwellings.
   **West** – “N3a”, Uses are One Household Living dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Sheridan Gardens Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed October 5, 2020 (10 days prior to the hearing) to the Sheridan Gardens 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 Sheridan Gardens Neighborhood Association notices were mailed to Kurt Lee, 3507 E 39th Court, Des Moines, IA 50317.

8. **Relevant Zoning History:** The subject property was zoned to “P2” Public, Institutional, and Civic District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.

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, 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.
Part A) Allow expansion of the existing on-site parking lot, within the front yard where required to be in the rear or side yard for a Civic Building Type per Section 135-2.10.3.A.8.

The applicant is proposing to pave new on-site parking spaces to the east of the existing Place of Worship Civic Building to provide as many on-site spaces as possible as the proposed building and required landscaping would displace existing parking spaces. The site would require 46 parking spaces under the Ordinance with 60 spaces being proposed. The existing building is setback 54.9 feet from East 38th Street to the front facade. One existing space and five proposed spaces would be east of the front facade of the building. Elimination of the proposed 5 parking spaces to comply with the Ordinance would leave 55 spaces to meet the minimum required parking count.

Staff is not supportive of the proposed on-site parking within the front yard of the Place of Worship. Staff believe that the spaces are not necessary and would be an adverse impact to the character of the surrounding residential neighborhood setting.

Part B) Waiver of the requirement of a primary entrance on the primary frontage facade along Hull Avenue per Sec. 135-2.9.3.D.18. feet per Section 135-2.5.3.D.21.

Due to existing grades between Hull Avenue to the south and the proposed location of the building, the developer has proposed the entrance to the building on the east side facade rather than the south facade oriented toward the public street. An overhang or awning is proposed drawing attention to the primary entrance on the east facade.

Staff acknowledges the grade challenges for providing the accessible entrance on the south facade relative to grades of the existing site driveways. However, to mitigate the lack of a front facing entrance, Staff believes that a pedestrian walk should be provided to the Hull Avenue sidewalk being installed with the project. Due to the grade this would not necessarily be an accessible path, so and accessible path to the parking lot to the north should also be provided.

3. Staff Rationale: Staff believes that the developer has proposed a quality development to serve the function for the Place of Worship use. Staff does not concur with the developer’s design rationale for Part A providing parking within the front yard area along East 38th Street. This is based on a finding that the gained parking spaces would not be required to meet minimums by the Ordinance and that the parking would be an adverse impact to the character of the surrounding neighborhood area.

Staff concurs with the developer’s design rationale for Part B not providing a primary entrance facing Hull Avenue. However, to meet the intent of the building addressing the street, a direct pedestrian walk should be provided to the primary entrance from both the sidewalk on Hull Avenue and to the parking lot to the north.
III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative in Part A, to allow on-site parking within the front yard area along East 38th Street.

Staff recommends approval of the requested Type Design Alternative in Part B to allow the primary entrance of the Workshop/Warehouse Building to be located on the east, non-street facing façade subject to provision of a pedestrian walk connection from this entrance to both the Hull Avenue public sidewalk and to the on-site parking lot to the north.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Roger Silver of Nilles Associates, 1250 SW State Street, representing the applicant stated the East entrance on the new building is intended to be a work space for the Church staff. Regarding the parking, they would like to keep the stalls on the South Side rather than the North due to the proximity to the main entrance. They are willing to comply with the City staff’s recommendation and will proceed no matter the outcome tonight.

Pastor Dan McCoy 3020 East 38th Street stated Roger and himself had some miscommunication. He is trying to preserve the North Parking so members won’t have to park on East 37th and Hull Avenue.

Abby Chungath asked what will happen to the parking stalls on the South side of the building?

Roger Silvers stated parking stalls to exist and plan to remain there.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones made a motion for denial of the requested Type 2 Design Alternative in Part A, to allow on-site parking within the front yard area along East 38th Street and APPROVAL of the requested Type Design Alternative in Part B to allow the primary entrance of the Workshop/Warehouse Building to be located on the east, non-street facing façade subject to provision of a pedestrian walk connection from this entrance to both the Hull Avenue public sidewalk and to the on-site parking lot to the north.

THE VOTE: 13-0
Item 10

Request from Quik Trip Corporation (lessee) represented by Jessica Glava (officer) for the following regarding the property at 1421 Ingersoll Avenue. The subject property is owned by Humphrey’s Fund I REIT, LLC:

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

B) Rezone property from “MX2” Mixed Use District to “MX3” Mixed Use District to allow the existing 4,008-square foot Fuel Station with 10 fueling location the ability to request a Conditional Use for a business that sells alcoholic liquor. (ZON2020-00113)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to add alcoholic liquor sales to their existing convenience store business. The proposed rezoning is necessary for them to be able to request Conditional Use approval for alcoholic liquor sales from the Zoning Board of Adjustment.

2. Size of Site: 39,606 square feet.


4. Existing Land Use (site): Convenience store with fuel sales.

5. Adjacent Land Use and Zoning:

   North – “MX2”; Use is a surface parking lot utilized for the Methodist Medical Campus.

   South – “DX2”; Use is an office building.

   East – “DX1”; Use is an office building.

   West – “MX2”; Uses are surface parking and an office building.

6. General Neighborhood/Area Land Uses: The subject property is in the northwest part of the downtown at the edge of the Sherman Hill Neighborhood and the Methodist Medical Campus. The site is bound by High Street to the north, Ingersoll Avenue to the east and south, and 15th Street to the west.

7. Applicable Recognized Neighborhood(s): The subject property is in the Downtown Des Moines Neighborhood and within 250 feet of the Sherman Hill
Neighborhood. The neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 25, 2020 (20 days prior to the hearing) and October 5, 2020 (10 days prior to the hearing) to the Downtown Neighborhood Association, the Sherman Hill 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 Downtown Des Moines Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street #413, Des Moines, IA 50309. The Sherman Hill Association mailings were sent to Ryan Howell, 831 16th Street, Des Moines, IA 50314.

8. Relevant Zoning History: N/A.


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

II. ADDITIONAL APPLICABLE INFORMATION

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

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

   The subject property is currently zoned “MX2” District. The Zoning Ordinance describes this district as “intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” Building types allowed in this district by Chapter 135 include the Storefront, Civic Building and Principal-Use Parking Structure.
The “MX2” District does not allow the subject use to have liquor sales. The applicant has requested rezoning to the “MX3” District, which would allow them to request Conditional Use approval of the sale of alcoholic liquor from the Zoning Board of Adjustment. The Zoning Ordinance describes the “MX3” District as “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 use at a smaller scale.” Building types allowed in this district by Chapter 135 include the Storefront, Commercial Cottage, Commercial Center, Principal-Use Parking Structure, and Civic Building.

The “MX3” District allows some industrial uses, and vehicle sales and service uses by right that are prohibited or are conditional uses in the “MX2” and “DX” Districts. These types of uses were not intended to be allowed by right in the downtown and must be prohibited for the proposed rezoning to be found in conformance with the “Downtown Mixed Use” future land use map designation.

Staff recommends that any rezoning to the “MX3” District only allow the ability to request a Conditional Use to allow sale of packaged alcoholic liquor plus the same Permitted and Conditional Uses in common with the “MX2” District as restricted by the “MX2” District. Also, Staff recommends that accessory structures should only be those allowed in the “MX2” District.

2. **Separation Requirements**: Table 134-3.1-2 of the Zoning Ordinance require fuel stations with alcoholic liquor sales that are zoned “MX3” District to be separated by at least 500 feet from the property line of the lot where any church, school, public park or licensed child care facility are located. They are also required to be separated by at least 1320 feet from any other controlled use engaged in the sale of alcoholic liquor. The subject property is within 485 feet of the Pappajohn Sculpture Park. Therefore, the applicant must obtain a Variance of this requirement from the Zoning Board of Adjustment before the Board can consider a Conditional Use application.

3. **Conditional Use Criteria**: Should the property be rezoned, the applicant would be required to obtain Conditional Use approval from the Zoning Board of Adjustment. The following criteria from Section 134-3.8.1.B of the Zoning Ordinance is the basis for the Board’s review.

   *Conditional use approval is required for the use of a premises for the sale of alcoholic liquor, wine or beer, under the circumstances identified in indicated in Table 3.1-2 of this article. The board of adjustment is authorized to grant conditional use approval for such uses only when the business, operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:*

   1. The business conforms with the conditions identified in indicated in Table 3.1-2 of Chapter 134 of the City Code.*
2. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.

3. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.

4. The business will not unduly increase congestion on the streets in the adjoining residential area.

5. The operation of the business will not constitute a nuisance.

In addition, these general standards from Section 134-3.8.1.C apply to any Conditional Use for the sale of alcoholic liquor, wine and/or beer granted by the Board.

General Conditions. Any conditional use approval granted by the board of adjustment for the use of a premises for the sale of alcoholic liquor, wine and beer is subject to the following general conditions, together with such additional special conditions as may be reasonably required by the board of adjustment to ensure that the conditional use review approval criteria of paragraph B of this subsection, are satisfied:

1. Any parking area provided for the use of customers of the business must be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site must be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

2. The business shall comply with the noise control regulations of article IV of chapter 42 of this code. Outside speakers and amplified sound is prohibited except when used in compliance with a type E sound permit.

3. Any such business must comply with the following requirements:
   a. Every limited retail sales establishment, Fuel Station and tobacco store shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other business selling alcoholic liquor for off premises consumption shall either:
      i. Display alcoholic liquor only in a locked case or behind a counter accessible only to employees;
      ii. Employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or
      iii. Have more than one employee on duty at all times the business is open to the public.
   b. Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
   c. Institute a strict no loitering policy, conspicuously post one or more “No Loitering” signs, and cooperate with police in addressing loitering on the premises.
   d. Not dispense alcoholic beverages from a drive-through window.

4. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.
5. The conditional use approval is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of the conditional use approval.

6. If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions of the conditional use approval, the zoning enforcement officer may apply to the board of adjustment to reconsider conditional use approval for such business. A copy of such application and notice of the hearing before the board on such application shall be provided to the owner of such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board of adjustment finds that the operation of such business exhibits a pattern of violating the conditions of the conditional use, the board shall have the authority to amend or revoke the conditional use approval.

4. **Planning and Design Ordinance**: Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. Staff is not aware of any anticipated site improvements or exterior alterations associated with this proposal. Staff support of the proposed rezoning should not be construed as support for future variance or conditional use applications to the Zoning Board of Adjustment.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Downtown Mixed Use so long as the zoning is limited as described in Part B of the Staff Recommendation.

Part B) Staff recommends approval of rezoning the subject property from “MX2” 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 subject to approval of a Conditional Use from the Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX2” Mixed Use District and as limited in the “MX2” Mixed Use District.

2. Accessory structures shall be limited to those permitted in the “MX2” Mixed Use District per Table 135-2.22-1.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation. There is currently opposition by owners of 40% of the land area with 250 feet of the rezoning so a 6/7th vote of the City Council will be required regardless of the Plan and Zoning Commission’s recommendation.

Ben Bruner 699 Walnut Street representing Dickinson Law Firm stated this location is one Quick Trip is excited for in the short term and long term. Quick Trip is currently
reviewing the potential of remodeling and upgrading this site to a new modern store design. The decision to invest millions of dollars into a store would also require more internal financial review and profitability levels as the current pandemic has decreased fuel and retail sales throughout the City and the County. Tonight, is the first step of many. If the rezoning is approved, a conditional use permit will be reviewed by the Zoning Board of Adjustment. They do invite and encourage input from all neighbors and surrounding business so they are able to have productive conversation and address any concerns that are raised. They are a corporate citizen that wants to make sure they are doing the right thing for the neighborhood, employees and customers. Their track record should serve as evidence in their company’s commitment for safe and responsible operations and liquor sales. With other competitors granted a conditional use to sell liquor, they would ask for similar allowance from the City.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Ryan Howell 831 16th Street stated while this is a zoning issue right now, the only reason they are asking for the rezoning is for the ability to sell liquor. This request is going to do nothing but prey on the most vulnerable members of our community. This location is close to the homeless shelter and long standing homeless camps which frequently visit this Quick Trip. He asks for the commission to consider all the letters received from surrounding neighbors and business owners stating the inconsistency with the surrounding area and this rezoning being inconsistent with anything currently around it. The new gas stations built along Keo Way made the decision not to sell liquor because they recognized the negative impact it would have on the area.

Scott Selix 1525 High Street Owner of Lua Brewing stated the biggest challenge they’ve had to face since opening the brewery is walking female bartenders to their cars at time of close because of the harassment they receive from the homeless community. This request would only fuel the fire that Sherman Hill has tried so hard to get rid of. Dialog should have taken place with neighbors and surrounding business before this request was submitted just like they did before opening Lua Brewing, where not a single person was opposed to the request because of the dialog they had with the Sherman Hill Neighborhood.

James Wine 700 Walnut Street representing Unity Point stated it is unusual for Unity Point to be involved in zoning disputes but there was no hesitation when it came to this request. In 2019 Unity Point had 198 documented cases where security had to respond to situations involving vagrancy, people drunk, passed out and drug use in their South parking lot. There is a unique coalition of people opposed to this request which is the residents of Sherman Hill, the hospital, surrounding business and social services that serve the homeless community. He believes this will only do good for Quick Trip and highly encourages the commission to deny the rezoning request.

Jack Porter 815 18th Street stated he has been a resident of Sherman Hill for 40 years and objects to this rezoning request. This isn’t just a rezoning request, this is a significant social impact of the neighborhood. He isn’t aware of Quick Trip making any effort to contact anyone in the neighborhood which is an unfortunate development by
Quick Trip. Quick Trip may be a good corporate citizen but they have not done anything for the Sherman Hill Neighborhood.

Carol Maher 1510 Center Street stated Quick Trip should look into providing funds for a social worker to help with the issues involving the homeless community in the area. She is confused about what type of remodeling would require a rezoning.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Ben Bruner stated they would be willing to have discussion around what Quick Trip can do with providing funds for outreach or social workers. Stating they want to have a conversation doesn’t mean lip service, they gave notice to the listing provided by the City and provided their contact information. Being zoned MX2 currently, they would need to rezone to MX3 so no conditional use permit is needed for fuel sales.

Jann Freed stated she rented an office for several years across the street from this Quick Trip location and can say the issues raised tonight are accurate based on the encounters she had with the homeless community in the area.

Greg Wattier asked what the changed in zoning would allow the applicant to do?

Jason Van Essen stated in MX2, fuel sales are a conditional use. Should they clear the site and redevelop or invest more than 50% of the value they would be required to seek a conditional use approval from the Zoning Board of Adjustment. Also, they don’t have the ability to seek a conditional use permit for liquor sales in MX2 and MX3 would allow them to seek the conditional use permit for liquor sales.

Greg Wattier stated he is in support of small convenience stores in the City but does find it more disturbing there was no engagement with the neighborhood.

Rocky Sposato stated Quick Trip isn’t the reason for problems in our community, the people that want to buy liquor will find another place to buy it. Security should be very important in this area if they are pushing to sale liquor.

COMMISSION ACTION:

Francis Boggus made a motion for DENIAL of Part A) the proposed rezoning to “MX3” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Downtown Mixed Use and Part B) DENIAL of rezoning the subject property from “MX2” Mixed Use District to “MX3” Mixed-Use District.

THE VOTE: 12-1 (Rocky Sposato voted in opposition)
Item 11 - WITHDRAWN BY THE APPLICANT

Request from Quik Trip Corporation (lessee) represented by Jessica Glava (officer) for the following regarding the property at 614 University Avenue. The subject property is owned by Vosburgh Family, LP:

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Neighborhood Mixed Use within a Community Node to Community Mixed Use within a Community Node. (21-2020-4.21)

C) Rezone property from “MX2” Mixed Use District to “MX3” Mixed Use District to allow the existing 5,590-square foot Fuel Station with 12 fueling location the ability to request a Conditional Use for a business that sells alcoholic liquor. (ZON2020-00114)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to add alcoholic liquor sales to their existing convenience store business. The proposed rezoning is necessary for them to be able to request Conditional Use approval for alcoholic liquor sales from the Zoning Board of Adjustment. In addition, fuel sales businesses are a Conditional Use in the “MX2” District.

2. Size of Site: 67,362 square feet.


4. Existing Land Use (site): Convenience store with fuel sales.

5. Adjacent Land Use and Zoning:

   North = “PUD”; Use is a McDonald’s restaurant.
   South = “RX2” & “MX2”; Use is an office building.
   East = “PUD”; Use is the Mercy Medical Campus.
   West = “P2”; Use is the DMMAC Community College Campus.

6. General Neighborhood/Area Land Uses: The subject property is in an area that contains a mix of commercial, institutional and residential uses. It sits on the southwest corner of the University Avenue and 6th Avenue intersection.

7. Applicable Recognized Neighborhood(s): The subject property is in the Cheatom Park Neighborhood and within 250 feet of the River Bend Neighborhood. The
neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on September 25, 2020 and by mailing of the Final Agenda on October 9, 2020. Additionally, separate notifications of the hearing for this specific item were mailed September 25, 2020 (20 days prior to the hearing) and October 5, 2020 (10 days prior to the hearing) to the Cheatom Park Neighborhood Association, the River Bend 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 Cheatom Park Neighborhood Association mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314. The River Bend Neighborhood Association mailings were sent to Jon Royal, 1830 8th Street, Des Moines, IA 50314.

8. Relevant Zoning History: N/A.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:
   Neighborhood Mixed Use within a Community 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” within a “Community Node” to “Community Mixed Use” within a “Community Node.” 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.

Community Node: Mid-size centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

The subject property is currently zoned “MX2” District. The Zoning Ordinance describes this district as “intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” Building types allowed in this district by Chapter 135 include the Storefront, Civic Building and Principal-Use Parking Structure.

The “MX2” District does not allow the subject use to have liquor sales. The applicant has requested rezoning to the “MX3” District, which would allow them to request Conditional Use approval of the sale of alcoholic liquor from the Zoning Board of Adjustment. The Zoning Ordinance describes the “MX3” District as “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 use at a smaller scale. Building types allowed in this district by Chapter 135 include the Storefront, Commercial Cottage, Commercial Center, Principal-Use Parking Structure, and Civic Building.

The “MX3” District allows some industrial uses, and vehicle sales and service uses by right that are prohibited or are conditional uses in the “MX2” District. These types of uses were not intended to be allowed by right in a node the character of the area around the 6th Avenue and University Avenue intersection. 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 “MX2” District as restricted by the “MX2” District. Also, Staff recommends that accessory structures should only be those allowed in the “MX2” District.

2. Separation Requirements: Table 134-3.1-2 of the Zoning Ordinance require fuel stations with alcoholic liquor sales that are zoned “MX3” District to be separated by at least 500 feet from the property line of the lot where any church, school, public park or licensed child care facility are located. They are also required to be separated by at least 1320 feet from any other controlled use engaged in the sale of alcoholic liquor. The subject property adjoins school land (DMMAC) and is within 185 feet of a daycare. Therefore, the applicant must obtain a Variance of this requirement from the Zoning Board of Adjustment before the Board can consider a Conditional Use application.
3. **Conditional Use Criteria:** Should the property be rezoned, the applicant would be required to obtain Conditional Use approval from the Zoning Board of Adjustment. The following criteria from Section 134-3.8.1.B of the Zoning Ordinance is the basis for the Board’s review.

Conditional use approval is required for the use of a premises for the sale of alcoholic liquor, wine or beer, under the circumstances identified in indicated in Table 3.1-2 of this article. The board of adjustment is authorized to grant conditional use approval for such uses only when the business, operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:

6. The business conforms with the conditions identified in indicated in Table 3.1-2 of Chapter 134 of the City Code.

7. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.

8. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.

9. The business will not unduly increase congestion on the streets in the adjoining residential area.

10. The operation of the business will not constitute a nuisance.

In addition, these general standards from Section 134-3.8.1.C apply to any Conditional Use for the sale of alcoholic liquor, wine and/or beer granted by the Board.

**General Conditions.** Any conditional use approval granted by the board of adjustment for the use of a premises for the sale of alcoholic liquor, wine and beer is subject to the following general conditions, together with such additional special conditions as may be reasonably required by the board of adjustment to ensure that the conditional use review approval criteria of paragraph B of this subsection, are satisfied:

1. Any parking area provided for the use of customers of the business must be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site must be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

2. The business shall comply with the noise control regulations of article IV of chapter 42 of this code. Outside speakers and amplified sound is prohibited except when used in compliance with a type E sound permit.

3. Any such business must comply with the following requirements:
   a. Every limited retail sales establishment, Fuel Station and tobacco store shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other business selling alcoholic liquor for off premises consumption shall either:
i. Display alcoholic liquor only in a locked case or behind a counter accessible only to employees;
ii. Employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or
iii. Have more than one employee on duty at all times the business is open to the public.
b. Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
c. Institute a strict no loitering policy, conspicuously post one or more “No Loitering” signs, and cooperate with police in addressing loitering on the premises.
d. Not dispense alcoholic beverages from a drive-through window.

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

5. The conditional use approval is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of the conditional use approval.

6. If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions of the conditional use approval, the zoning enforcement officer may apply to the board of adjustment to reconsider conditional use approval for such business. A copy of such application and notice of the hearing before the board on such application shall be provided to the owner of such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board of adjustment finds that the operation of such business exhibits a pattern of violating the conditions of the conditional use, the board shall have the authority to amend or revoke the conditional use approval.

4. Planning and Design Ordinance: Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. Staff is not aware of any anticipate site improvements or exterior alterations associated with this proposal. Staff support of the proposed rezoning should not be construed as support for future variance or conditional use applications to the Zoning Board of Adjustment.

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 “MX2” 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 subject to approval of a Conditional Use by the Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX2” Mixed Use District and as limited in the “MX2” Mixed Use District.

2. Accessory structures shall be limited to those permitted in the “MX2” Mixed Use District per Table 135-2.22-1.

SUMMARY OF DISCUSSION

Mike Ludwig stated the applicant for item #11 has withdrawn their request.

Item 12

Request from Tiger Knight, LLC (owner) represented by Barry Nelson (officer) for the following regarding the property at 1210 and 1220 Army Post Road:

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Low Density Residential within a Community Node to Community Commercial within a Community Node. (21-2020-4.24)

C) Rezone property from “RX1” Neighborhood Mix District to “MX1” Mixed Use District to allow the existing commercial building to be used for a greater variety of permitted mixed uses. (ZON2020-00120)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to rezone the property to allow the existing commercial building to be used for a greater variety of permitted uses.

2. Size of Site: 1.25 acres.

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

4. Existing Land Use (site): The site contains a 13,475-square foot vacant commercial building and surface parking lot.

5. Adjacent Land Use and Zoning:
North – “RX1”, Uses are Army Post Road, office, and auto repair.

South - “N3b”, Uses are one-household residential lots.

East – “RX1”, Use is retail (Betts Military Surplus).

West – “RX1”, Use is a one-household residential dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Army Post Road commercial corridor. Low density residential neighborhood areas are generally to the north and south of the corridor.

7. **Applicable Recognized Neighborhood(s):** The subject property is within 250 feet of the Watrous South Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on September 25, 2020. Additionally, separate notification of the hearing for this specific item was mailed on September 25, 2020 (20 days prior to the public hearing) and on October 5, 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 property. A final agenda was mailed on October 9, 2020.

All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Watrous South Neighborhood mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

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

8. **Relevant Zoning History:** On April 3, 2017, the City Council denied a request to rezone the property to the “M-1” Light Industrial District to allow the appellant to use the building for warehouse, bowling pin refurbishing, and automobile painting. This denial of the rezoning allowed the appellant to request a Use Variance.

On May 24, 2017, the Zoning Board of Adjustment denied a request for a Use Variance to allow use of the existing building and proposed addition for an ice warehouse and distribution facility.

On June 27, 2018, the Zoning Board of Adjustment granted an Exception of 4 feet less than the minimum 20 feet of width required for a driveway for two-way circulation and an Exception of 14 parking spaces less than the minimum 76 off-street parking spaces required for 9,000 square feet of assembly use (1 space per 150 square feet) and for 5,051 square feet of retail space (1 space per 400 square feet for 4,000 square feet and 1 space per 200 square feet for the balance), to allow
use of the existing building, as well as a proposed 18-foot by 32-foot (576 square feet) addition to the rear of the building, for a mix of uses, including 9,000 square feet of event center (assembly) use and 5,051 square feet of retail use. That approval was subject to the following conditions:

1. All driveways shall be paved to the satisfaction of the Planning Administrator.
2. The parking lot shall be expanded to provide at least 22 additional parking spaces in accordance with an approved Site Plan (minimum of 62 total parking spaces).
3. The entire site shall be brought into conformance with the City’s Landscaping Standards.
4. All site improvements and landscaping identified on the approved Site Plan shall be installed prior to the issuance of a final Certificate of Occupancy (C.O.).

On December 16, 2019, the subject property was rezoned from “C-2” General Retail and Highway-Oriented Commercial District to “RX1” Mixed-Use District, as part of the Citywide rezoning established by Ordinance 15,818.

On May 20, 2020, a Plat of Survey (13-2020-1.48) was approved to create a 109-foot deep by 123-foot wide parcel with frontage along West Street immediately to the south of the subject property. There is currently a relocated manufactured home setting on the subject property, which has been proposed to be placed on this newly created lot.


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

Staff recommends that the Commission continue the public hearing to the November 5, 2020 Plan & Zoning Commission meeting so that the Commission can consider a revised request to rezone the property to the “MX3” District or “I1” District instead of the “MX1” District.

SUMMARY OF DISCUSSION

Erik Lundy stated the applicant for items #12 has requested a continuance to the November 5, 2020 Plan and Zoning Commission Meeting.

COMMISSION ACTION:

Dory Briles made a motion for continuance of item #12 to the November 5, 2020 meeting.

THE VOTE: 14-0

Committee and Director’s Reports:

Dory Briles Made a motion to approve the 2021 Plan and Zoning Commission meeting calendar. Motion Carried 12-0. Emily Webb was absent.

Mike Ludwig stated staff has scheduled meeting on Thursday October 22 at 3PM to discuss methods of performance security as an option to sidewalk waivers.

Meeting adjourned at 8:30pm