The November 5, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 832 7457 8794.


P&Z ABSENT: Francis Boggus and Jann Freed

STAFF PARTICIPANTS: 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 November 19, 2020 Plan and Zoning Commission meeting minutes. Motion carried 11-0-1 (Johnny Alcivar abstained as he was not present for the November 19 meeting).

Dory Briles asked if any members of the public or the Commission requested to speak on consent agenda items #1 or #2.

Carolyn Jenison made a motion to approve Consent Agenda Items #1 and #2. Motion carried 12-0.

Bert Drost stated the applicants for item #6 has requested a continuance to the December 17th Plan and Zoning Commission meeting to allow time for a meeting with the Greenwood Historic Neighborhood Association.

Erik Lundy stated staff has recommended item #8 be continued to the December 17th Plan and Zoning Commission meeting due to an error on the public notice.

Emily Webb made a motion to continue item #6 and #8 to the December 17th Plan and Zoning Commission meeting. Motion carried 12-0.

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from 814 Development/814 Acquisitions, LLC (purchaser) represented by Samantha Coponen (officer) for vacation and conveyance of the following adjoining the property at 204 12th Street. The adjoining subject property is owned by Nationwide Mutual Insurance Company: (11-2020-1.15)

A) An 8.54-foot by 4.50-foot segment of Mulberry Street for a front stoop.
B) Segments of Right-Of-Way with existing building encroachments on the adjoining north/south alley, 12th Street and Mulberry Street.
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacations accommodate existing building encroachments and for the building to be utilized by Kindercare.

2. Size of Site: Combined 65.07 square feet.

3. Existing Zoning (site): “DX1” Industrial District.

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

5. Adjacent Land Use and Zoning:
   - North – “DX1”; Use is a surface parking lot.
   - South – “DX1”, Use is a parking structure.
   - East – “DX1”; Use is a parking structure.
   - West – “DX1”; Use is a 1-story office and warehouse building.

6. General Neighborhood/Area Land Uses: The subject property is located on the northwest corner of the 12th Street and Mulberry Street intersection in an area consisting of a mix of retail, residential, office/warehouse, and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on November 13, 2020 and by mailing of the Final Agenda on November 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 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. The Downtown Des Moines Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street Unit 413, Des Moines, IA 50309.

8. Relevant Zoning History: None.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: A city signal conduit as well as a non-city signal handhold and conduit have been identified approximately 10 feet to the south of the requested area on the southeastern corner of the building. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Traffic/Access: The requested vacations would not negatively impact the existing access or traffic patterns.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested vacation subject to the reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for approval of the requested vacation subject to the reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

THE VOTE: 12-0

Item 2

Request from Sitwell, LLC (owner) represented by Daniel Kelley (officer) for review and approval of a PUD Final Development Plan “The Village at Gray’s Lake Lot 6”, on property located at 2688 Southwest 23rd Street, to allow reuse of the former classroom building for commercial office space. (10-2021-7.20)
I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to renovate a 2-story, 10,816-square foot classroom building on the former American Institute of Business campus. Based on the requirements of the Village at Gray’s Lake PUD Conceptual Plan, a Final Development Plan must be reviewed for compliance with the standards approved in that Plan.

2. Size of Site: 32,790 square feet (0.753 acres).

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

4. Existing Land Use (site): Vacant classroom building and on-site surface parking.

5. Adjacent Land Use and Zoning:

   North – “PUD”, Uses include former American Institute of Business dormitories proposed to be renovated into 93 multi-household units and the former AIB Gymnasium, proposed to be the Village at Gray’s Lake Activities Center.

   South – “PUD” & “NX2”, Uses include existing multiple-household dwelling units and surface parking lots.

   East – “PUD”, Uses include former AIB Academic Center building proposed for professional offices and proposed development of 3-story Row Building Type townhomes.

   West – “PUD” & “EX”, Uses include the former AIB Gymnasium, proposed to be the Village at Gray’s Lake Activities Center and office and warehousing structure.

6. General Neighborhood/Area Land Uses: The subject property is located southwest of the intersection of Bell Avenue and Fleur Drive within the former AIB campus. The area is a mix of residential densities to the south and west into the primarily low density Southwestern Hills Neighborhood. East of Fleur Drive is a mix of office and medium density residential transitioning into the primarily low density residential Gray’s Lake Neighborhood to the east.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood and within 250 feet of the Gray’s Lake Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on November 13, 2020 and by mailing of the Final Agenda on November 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 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. The Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321. The Gray’s Lake Neighborhood Association mailings were sent to Stefanie Running, 1334 Loomis Avenue, Des Moines, IA 50315.

8. Relevant Zoning History: On October 14, 2019 by Ordinance No. 15,813 the City Council rezoned from “M-3” Limited Industrial District and “R-3” Multiple Family Residential District to “PUD” Planned Unit Development District along with adoption of the Village at Gray’s Lake PUD Conceptual Plan.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. Village at Gray’s Lake PUD Conceptual Plan Requirements: The requirements as established by Ordinance No. 15,813 by the City Council on October 14, 2019 are listed below:

   A. Any amendments or changes to the project site that do not meet what is shown on the Site plan need to be approved with the permit and development center prior to installation/construction.
   B. Lighting shall consist of low-glare cut off type fixtures to reduce the glare of light pollution on surrounding properties.
   C. The required landscaping, both existing and proposed, shall be maintained for the life of the certificate of occupancy or certificate of zoning compliance.
   D. No mechanical or utility equipment over 3 feet in height shall be allowed in any minimum required front yard setback area.
   E. All rooftop mechanical equipment will be screened from street level view or from residentially zoned property.
   F. All disturbed areas shall be restored by seeding or sodding.
   G. Any improvements shown outside of the Lot 3 are incidental and will not be included in Lot 3.

On May 18, 2020 the City Council approved the First Amendment to the Village at Grays’ Lake PUD Conceptual Plan by Roll Call 20-0863 to define Lot 5.

On July 13, 2020 the City Council approved a Final Development Plan for the Pinnacle on Fleur for Lot 5 pursuant to Roll Call 20-1161. The City Council also approved a PUD Final Development Plan for Village at Gray’s Lake Lot 3 pursuant to Roll Call 20-1162 on that same date.

The proposed Final Development Plan is for Lot 6 of the Village at Grays’ Lake PUD Conceptual Plan. The applicant is proposing to update the use of an existing
classroom building as an office building. Per the requirements of the Village at Gray’s Lake PUD Conceptual Plan, the change from classroom to office building requires the approval of the Plan and Zoning Commission. Staff has reviewed the change to the site plan and has not identified any issues of non-compliance. The change to office building 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.

### III. STAFF RECOMMENDATION

Staff recommends approval of the PUD Final Development Plan “The Village at Gray’s Lake Lot 6” to allow reuse of the former classroom building for commercial office space, subject to all administrative review comments.

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the PUD Final Development Plan “The Village at Gray’s Lake Lot 6” to allow reuse of the former classroom building for commercial office space, subject to all administrative review comments.

**THE VOTE:** 12-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

**Item 3**

*This item was not used.*

**Item 4**

Request from Antonio Dominguez and Gabriella Herrera (owners) for the following regarding the property at 301 Southeast 28th Street:

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 Industrial to Low Density Residential. (21-2020-4.26)

C) Rezone property from “I1” Industrial District to “N3c” Neighborhood District to allow the existing Household Living use to be extended with addition of a new accessory 2-story detached garage use. (ZON2020-00139)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property is zoned “I1” District, which does not allow residential uses. The existing one household residential use has legal non-conforming rights to exist, but cannot be expanded. The applicant is proposing to construct a two-story detached garage. For this to occur, the property must be rezoned to a district that allows one household residential uses. If the rezoning is denied, the applicant can seek a Use Variance from the Zoning Board of Adjustment to allow a garage to be constructed.

2. Size of Site: 58 feet by 180 feet (10,440 square feet or 0.24 acres).

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

4. Existing Land Use (site): The property contains a one household residential building and a 9-foot by 16-foot shed.

5. Adjacent Land Use and Zoning:

   North – “I1”; Uses are one household residential.
   South – “I1”; Uses are one household residential.
   East – “I1”; Use are one household residential.
   West – “EX”; Use are one household residential.

6. General Neighborhood/Area Land Uses: The subject property is in an area that contains a mix of one household residential and industrial uses.

7. Applicable Recognized Neighborhood(s): The subject property is not located within 250 feet of a recognized neighborhood association. All neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on November 13, 2020 and by mailing of the Final Agenda on November 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 13, 2020 (20 days prior to the hearing) and November 23, 2020 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. 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.

8. Relevant Zoning History: None.


10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to 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 “Industrial” to “Low Density Residential.” Plan DSM describes these designations as follows:

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

   **Low Density Residential**: Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

The subject property is currently zoned “I1” District. The Zoning Ordinance describes this district as “intended for general industrial uses, warehousing, and transportation terminals.” Building types allowed in this district by Chapter 135 include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant is proposing to rezone the subject property to the “N3c” District. The Zoning Ordinance describes this district as “intended to preserve the scale and character of residential neighborhoods developed predominately in the cottage or worker cottage style pursuant House Type C is Section 135-2.15 of this Code.” House Type C is the only building type allowed in this district by Chapter 135.

The existing one household residential use has legal non-conforming rights to exist, but cannot be expanded. The applicant is proposing to construct a two-story detached garage with a 27-foot by 30-foot footprint. For this to occur, the property must be rezoned to a district that allows one household residential uses. The second floor of the proposed garage cannot be used as living space unless the property is zoned to a district that allows accessory household units.
The site is in an area that contains a mix of industrial and one household uses that is generally bound by a major railroad line to the north and East Martin Luther King, Jr. Parkway to the south. PlanDSM envisions this area transition to industrial uses over an extended period due to the magnitude of the industrial uses in the area and its proximity to the railroad and East Martin Luther King, Jr. Parkway. Circumstances have not changed since PlanDSM was adopted in 2016. If the rezoning is denied, the applicant can seek a Use Variance from the Zoning Board of Adjustment to allow a garage to be constructed.

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. If a rezoning or use variance are approved, any accessory building can be no taller than the principal structure on the property. A proposed 2 story accessory building that is taller than the principal structure will require a Type Design Alternative from the Plan and Zoning Commission.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “N3c” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends denial of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential.

Part C) Staff recommends denial of rezoning the subject property from “I1” Industrial District to “N3c” Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

Greg Wattier asked if the applicant is aware that a denial must be made for them to seek a Use Variance?

Jason Van Essen stated that information is shown in the mailed staff report but he has not had any direct communication with the applicant.

Valerie Cramer 1163 24th Street Representing Antonio Dominguez stated when Mr. Dominguez purchased the home, it was zoned residential and then the City decided to rezone the property as Industrial. They did send out notice to their neighbors on October 21st with no objection to the garage being built. She believes the property should be rezoned back to residential as it is unfair to Mr. Dominguez.
CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier stated this feels like (it should be) a Use Variance and shouldn’t be rezoned back to residential after the years of progress.

Abby Chungath stated she would also agree with Greg Wattier’s statement.

Johnny Alcivar asked what the Commission’s action was on a similar item they had seen in the recent past?

Jason Van Essen stated that property was near Dixon Avenue where Interstate 235 turns to the North and South of Guthrie Avenue (2104 East 21st Street). The motion from the Commission was to recommend rezoning the property and in hope of City Council having a discussion on whether the whole area needed to be rezoned from Industrial.

Greg Jones stated we should leave the zoning alone and would recommend approving staff recommendation.

COMMISSION ACTION:

Greg Jones made a motion for approval of Part A) the proposed rezoning to “N3c” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) DENIAL of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Industrial to Low Density Residential and Part C) DENIAL of rezoning the subject property from “I1” Industrial District to “N3c” Neighborhood District so that the applicant can seek a use variance from the Zoning Board of Adjustment.

THE VOTE: 9-3 (Emily Webb, Johnny Alcivar and Rocky Sposato voted in opposition).

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Item 5

Request from Angel Groff (owner) for the following regarding the property at 2200 Easton Boulevard:

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 to Community Mixed-Use.

C) Rezone property from “N3a” Neighborhood District to “MX3” Mixed Use District to allow the existing vacant commercial building and site to be reused for a Vehicle Maintenance/Repair, Minor use and a Vehicle Sales use.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The requested rezoning would allow use of the property for either a Vehicle Maintenance/Repair, Minor use or a Vehicle Sales use. Use of the property is currently limited to an office use, a retail use, or a tire repair shop business in accordance with a Use Variance of permitted uses in the “R1-60” District, as granted by the Board of Adjustment on July 25, 2019.

   Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a new Use Variance of permitted uses in the “N3a” District from the Board of Adjustment to allow use of the property for a specific use, such as a Vehicle Maintenance/Repair, Minor use or a Vehicle Sales use.

2. Size of Site: 10,500 square feet (0.24 acre).

3. Existing Zoning (site): “N3a” Neighborhood District.

4. Existing Land Use (site): The subject property contains a 28-foot by 56-foot (1,568 square feet) building, a 24-foot by 30-foot (720 square feet) building, and a parking lot.

5. Adjacent Land Use and Zoning:

   North – “N3a”; Uses are an undeveloped lot and single- household residential.

   South – “NX1”; Uses are Easton Boulevard and single-household residential.

   East – “N3a”; Use is single- household residential.

   West – “P2”; Uses are East 22nd Street and a church.

6. General Neighborhood/Area Land Uses: The subject property is located along the north side of Easton Boulevard, just to the east of the I-235. The area primarily consists of single-family residential uses, with low-intensity commercial uses scattered along Easton Boulevard.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on November 13, 2020. A Final Agenda was mailed to the neighborhood associations on November 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 13, 2020 (20 days prior to the hearing) and on November 23, 2020 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Fairmont Park Neighborhood Association notices were mailed to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

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:** The property previously contained a vehicle display lot that had legal non-conforming rights to operate in the “R1-60” One-Family Low-Density Residential District. On June 27, 2012, the Zoning Board of Adjustment considered appeals that would have allowed for the expansion of the vehicle display lot on that property. At that time, the Board denied a Variance to allow expansion of a legal non-conforming use in the “R1-60” One-Family Low-Density Residential District and a Variance of 10 feet less than the minimum required ten (10) feet of setback for off-street parking and loading from a property line adjoining a residential district. However, the Board did grant an amended appeal for a Variance of 27.5 feet less than the minimum required 30 feet of setback for off-street parking and loading from street right-of-way property lines in a Residential district, that allowed them to retain paving within 2.5 feet of the front property lines, subject to the following conditions:

1. Provision of a 2.5-foot paving setback along both Easton Boulevard and East 22nd Street, which shall be landscaped with ornamental trees and shrubs in accordance with a landscaping plan as approved by the Permit & Development Center.
2. All barbed or razor wire on the site shall be removed.
3. All paving encroaching into the public right-of-way, except that necessary for any drive approach or sidewalk, shall be removed, with restoration of the area with sod and curbing.
4. If the preceding conditions are not satisfied prior to November 1, 2012, the site shall be required to provide the otherwise required 30-foot paving setbacks along both Easton Boulevard and East 22nd Street.
On November 3, 2017, the Zoning Enforcement Officer sent a letter to the appellant letting them know that the legal non-conforming rights for a vehicle display lot use on the property have ceased since it was determined that the property had been vacant since March 1, 2015. On December 22, 2017, the appellant appealed that determination, but on January 24, 2018, the Zoning Board of Adjustment upheld the determination (ZON2017-00219) that the legal non-conforming rights had ceased.

On April 5, 2018, the City Council denied a request to rezone the property to “C-2” General Retail and Highway-Oriented Commercial District (Roll Call 18-0621).

On May 23, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00073, granted a Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District (Use Variance) and a Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District Use of the property for tire repair shop and retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22nd Street. The approval was subject to the following conditions:

1. Any commercial use of the property shall be limited to a tire repair shop business and shall not occur until a Certificate of Occupancy has been issued for such.
2. Any use of the property for a tire repair shop business shall be in accordance with a Site Plan as approved by the Permit and Development Center.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.
4. There shall be no outdoor storage of any equipment or materials, including but not limited to new or used tires, barrels, or tools.
5. No vehicle shall be kept on the premise for more than 48 consecutive hours.
6. Display of vehicles for sale is prohibited.
7. Outdoor repair and servicing of vehicles is prohibited.
8. Outdoor display of automobile accessories or tires is prohibited.
9. All refuse and trash disposal containers are contained within an enclosure that complies with all Zoning and Site Plan regulations.
10. Automobiles shall only be parked in marked parking spaces in accordance with the approved Site Plan.
11. All landscaping required on the approved Site Plan shall be continuously maintained for the life of the Certificate of Occupancy.
12. Any signage for the business shall be limited to a wall-mounted sign that complies with the sign regulations applicable in a “C-1” District.
13. A copy of the Board’s Decision and Order shall be recorded at the appellant’s expense to ensure that any future property owners are aware of these conditions.
14. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions of approval.
After the May 23, 2018 approval, the potential tire repair business decided to locate elsewhere so the appellant filed a new application requesting that Docket ZON2018-00073 be amended to allow for additional commercial uses to market the property for more than just a tire repair business use.

On July 25, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00120, granted an amendment to the Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District and an amendment to the Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District, subject to the following conditions:

1. Any commercial use of the property shall be limited to an office use, retail use, or tire repair shop business and shall not occur until a Certificate of Occupancy has been issued for such.
2. Any use of the property for an office use, retail use, or tire repair shop business shall be in accordance with a Site Plan as approved by the Permit and Development Center.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.
4. There shall be no outdoor storage of any equipment or materials, including but not limited to new or used tires, barrels, or tools.
5. No vehicle shall be kept on the premise for more than 48 consecutive hours.
6. Display of vehicles for sale is prohibited.
7. Outdoor repair and servicing of vehicles is prohibited.
8. Outdoor display of automobile accessories or tires is prohibited.
9. All refuse and trash disposal containers are contained within an enclosure that complies with all Zoning and Site Plan regulations.
10. Automobiles shall only be parked in marked parking spaces in accordance with the approved Site Plan.
11. All landscaping required on the approved Site Plan shall be continuously maintained for the life of the Certificate of Occupancy.
12. Any signage for the business shall be limited to a wall-mounted sign that complies with the sign regulations applicable in a “C-1” District.
13. A copy of the Board’s Decision and Order shall be recorded at the appellant’s expense to ensure that any future property owners are aware of these conditions.
14. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions approval.

After the July 25, 2018 approval, the appellant identified a potential tenant that would use the property for the repair of vehicles that would be sold at a different location. Therefore, the appellant filed another application seeking to revise the conditions that currently prohibit such a use.
On September 26, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00177, denied an amendment to the Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District and an amendment to the Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District, to allow use of the property for the repair of vehicles that would be sold at a different location and retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22nd Street.

On October 23, 2019, the applicant filed an appeal to amend the Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District to allow use of the property for the repair of vehicles that would be sold at a different location. The Board found that the conditions, facts, and/or circumstances present at the time of the Board’s previous decision within the past 2 years had not changed. Therefore, the appeal was not considered by the Board.

On December 16, 2019, the subject property was rezoned from “R1-60” One-Family Low-Density Residential District to “N3a” Neighborhood District, as part of the Citywide rezoning established by Ordinance 15,818.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow Future Land Use Plan Designation: The subject property is designated as Low Density Residential, which is described as “areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre”. The proposed “MX3” Mixed Use District would require the land use designation to be amended to Community Mixed Use, which is described as “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 customer.”

Staff does not believe that this is an appropriate location for the Community Mixed Use designation. Easton Boulevard is not a high capacity transit corridor. This land use designation is typically located along corridors and/or transit routes, such as
East University Avenue, Hubbell Avenue, and East Euclid Avenue. Therefore, Staff recommends denial of both the land use plan amendment and the rezoning.

2. Site Plan Requirements: Should the property be rezoned, any change in the commercial use of the property must be in compliance with a Site Plan. This Site Plan must comply with all regulations, including those pertaining to landscaping and stormwater management. Furthermore, any Site Plan to allow vehicle display would also be subject to the design guidelines for vehicle display. These guidelines require that any site used for vehicle display should be at least 0.50 acre in area, which this 0.24-acre site would not satisfy.

III. STAFF RECOMMENDATION

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

Part B) Staff recommends denial of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for the subject property from “Low Density Residential” to “Community Mixed Use”.

Part C) Staff recommends denial of the requested rezoning of the property from “N3a” Neighborhood District to “MX3” Mixed Use District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific use, such as a Vehicle Maintenance/Repair, Minor use or a Vehicle Sales use.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Angel Groff 2200 Easton Blvd stated she would like to have vehicle repair and sales on this property. She has lost her previous renter and needs to make money to pay for property taxes.

CHAIRPERSON OPENED THE PUBLIC HEARING

Carol Maher 1510 Center Street, stated she drove past this property today and cars were scattered through the parking lot, along with the buildings being in disrepair. She hopes the applicant will take this feedback and make necessary improvements to the site.

Angel Groff stated she is willing to do any repairs to make it look nice so people are willing to rent.
CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page stated the existing zoning shown on nearby University Avenue and Hubbell Avenue were quite persuasive, along with the area being residential. He believes the rezoning should be denied and the applicant then seek relief from the Zoning Board of Adjustment.

Greg Wattier stated he would support staff recommendation.

Lisa Howard stated she is also in support of staff recommendation.

COMMISSION ACTION:

Will Page made a motion for approval of Part A) the Commission find the requested rezoning is not in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as “Low Density Residential”., Part B) DENIAL of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for the subject property from “Low Density Residential” to “Community Mixed Use”. And Part C) DENIAL of the requested rezoning of the property from “N3a” Neighborhood District to “MX3” Mixed Use District.

THE VOTE: 12-0

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Item 6

Request from Wesley Retirement Services, Inc. (owner) represented by Rob Kretzinger (officer) for review and approval of an amendment to the Wesley Acres PUD Conceptual Plan on property located at 3520 Grand Avenue and 401 37th Street, to allow building additions for the north and west entries with reconfiguration of the adjacent parking lot areas including extension of parking to the north toward Grand Avenue, a building addition for resident swimming pool and auditorium use on the west, a terrace/pond landscape feature in the north side of the site, expansion of the existing parking lot within the front yard area along 37th Street, renovation of the central courtyard area, expansion of beer, wine and liquor service within the Chamberlain Mansion and within all other dining service areas, and removal of the Children’s Garden and Preschool use previously a permitted use within the campus. (ZON2020-00141)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to the “PUD” Conceptual Plan would allow the following:
a. Construction of a building addition for a new entry on the north side of the building, which would revise the configuration of parking and sidewalks in that area.
b. Construction of a building addition for a new entry on the west side of the building, which would revise the configuration of parking and sidewalks in that area.
c. Construction of a building addition on the west side of the building for resident swimming pool and auditorium use.
d. Construction of a terrace and pond landscape feature within the northern portion of the site.
e. Expansion of the existing parking lot within the front yard area along 37th Street.
f. Renovation of the central courtyard area.
g. Expansion of beer, wine and liquor service within the Chamberlain Mansion and within all other dining service areas.
h. Removal of the Children’s Garden and Preschool use previously a permitted use within the campus.

Any future construction would be in accordance with a future “PUD” Development Site Plan that must be reviewed and recommended by the Plan and Zoning Commission and approved by the City Council. Such a Site Plan has not been submitted for review at this time.

2. Size of Site: Approximately 12 acres.

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

4. Existing Land Use (site): High-density residential retirement living campus, to include a healthcare facility and adult and children daycare centers.

5. Adjacent Land Use and Zoning to Site of Amendment:

   North - “NX3”; Use is high density residential.
   South - “N2a”; Uses are large lot single-family residential.
   East - “P1” & “P2”; Use is Des Moines University.
   West - “NX3”; Uses are high-density residential and Sisterhood of the PEO.

6. General Neighborhood/Area Land Uses: The surrounding neighborhood uses primarily consist of high density residential and institutional uses along Grand Avenue with large lot estate single-household residential to the south and a timbered landscape in between.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Greenwood Historic Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on November 13, 2020 and by mailing of the Final Agenda on November 25, 2020. Additionally, separate
notifications of the hearing for this specific item were mailed on November 23, 2020 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Greenwood Historic Neighborhood Association notices were mailed to Nicholas Larson, 127 34th Street, Des Moines, IA 50312.

Due to the COVID-19 pandemic, the applicant was unable to hold a neighborhood meeting. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** On June 2, 1986, the City Council approved the original “PUD” Conceptual Plan. On March 19, 1990, the City Council approved an amendment to expand the area of the “PUD”. On April 9, 2012, the City Council approved another amendment to the “PUD” Conceptual Plan to allow beer and wine sales for on-site consumption as part of the food service for residents as a permitted use, made revision to the allowed signage program to accommodate new branding, and defined the permitted exterior design for a 5,470-square foot adult daycare building addition.

9. **PlanDSM Creating Our Tomorrow Designation:** High Density Residential.

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. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Urban Design:** The proposed “PUD” Conceptual Plan demonstrates that the proposed building additions would be constructed to blend with the current surrounding building materials. It indicates that the additions would be sided with “a combination of prefinished metal flashing, synthetic stucco, facebrick, and aluminum storefront.”

   Staff recommends that all stucco shown on the building elevations shall meet the standards necessary in order to be considered as a “Major Façade Material”, as
regulated in City Code Chapter 135 and that all brick shown on the building elevations shall be full-dimensional brick and not thin brick.

Staff also recommends provision of a note to state that any refuse collection container will be within an enclosure constructed of masonry walls that match the primary building and steel gate.

2. **Off-Street Parking:** The proposed “PUD” Conceptual Plan demonstrates that off-street parking lots would be slightly reconfigured to accommodate the proposed building additions and that the existing parking lot within the west portion of the site would be extended towards 37th Street. Staff believes that parking configurations shown are appropriate. However, Staff recommends that the off-street parking lot within the western portion of the “PUD” Conceptual Plan should not extend any closer to the front property line along 37th Street than the existing building and shall not include a drive approach to 37th Street. Staff believes that these requirements are needed to preserve the residential character along 37th Street.

3. **Landscaping:** The proposed “PUD” Conceptual Plan demonstrates significant landscaping and plantings throughout the site. It also contains notes that state “Frontage buffer as outline in Chapter 135-7 is specifically excluded from the PUD” and “Existing parking areas to remain will follow previously approved plans relating to parking lot islands, but proposed and future areas will be current requirements for parking lot islands”.

Staff recommends provision of a note that states any new parking area shall be landscaped in accordance with the requirements applicable in the “NX3” District.

4. **Drainage/Grading:** The proposed “PUD” Conceptual Plan states that the site will utilize the existing south detention basin and a new north pond to ensure that the proposed storm water runoff will not exceed the existing runoff rate. This may include a combination of conventional detention and conservation practices which may involve permeable pavements, infiltration trenches, or other methods.

Engineering staff has reviewed the “PUD” Conceptual Plan with regard to drainage impacts. The additional improvements will require compliance with storm water management standards with any future “PUD” Development Site Plan. This includes any necessary amendment to detention improvements for water quality purposes and for flood control.

5. **Alcohol Sales:** The amendment proposes to expand the areas in the building where alcoholic liquor, wine, and beer would be served. Staff believes that the request is appropriate since the proposed amendment also eliminates the childcare facility that was previously operating on the site. However, a note should be provided to state that any sale or service of alcoholic liquor, wine and/or beer shall be in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.
III. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment to the Wesley Acres “PUD” Conceptual Plan subject to the following:

1. All stucco shown on the building elevations shall meet the standards necessary to be considered as a “Major Façade Material, as contained in City Code Chapter 135.

2. All brick shown on the building elevations shall be full-dimensional brick and not thin brick.

3. Provision of a note to state that any refuse collection container will be within an enclosure constructed of masonry walls that match the primary building and steel gate.

4. The off-street parking lot within the western portion of the “PUD” Conceptual Plan shall not extend any closer to the front property line along 37th Street than the existing “Wesley Bolton” building and shall not include a drive approach from 37th Street.

5. Any new parking area shall be landscaped in accordance with the requirements applicable in the “NX3” District.

6. Provision of a note that states any sale or service of alcoholic liquor, wine and/or beer shall be in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.

7. Compliance with all administrative review comments of final “PUD” Conceptual Plan documents.

SUMMARY OF DISCUSSION

Bert Drost stated the applicants for item #6 have requested a continuance to the December 17th Plan and Zoning Commission meeting to allow time for a meeting with the Greenwood Historic Neighborhood Association.

COMMISSION ACTION:

Emily Webb made a motion to continue item #6 to the December 17th Plan and Zoning Commission meeting.

THE VOTE: 12-0

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Item 7

Request from Savannah Homes, Inc. (owner) 3341 East 24th Street, Jason Mullin (owner) 3335 East 24th Street, and Kaitlyn Cine (owner) 3323 East 24th Street for review and approval of a Public Hearing Site Plan for a Type 2 Design Alternative in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, required by Chapter 135 Section 135-8.5.2.A for the property at 3341 East 24th Street; and appeal of Chapter 106-137 for all three properties with one household living dwellings for waiver of the installation of public sidewalk. (BLD2019-01968) (BLD2019-01982) (BLD2020-00456)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The owners of the subject properties are requesting waiver of the sidewalk requirements per Chapter 106 and Chapter 135.

2. Size of Site: 3341 East 24th Street 60 feet by 190 feet irregular-shaped (9,589 square feet). 3335 East 24th Street 75.88 feet by 254.11 feet irregular-shaped (17.193 square feet) and 3323 East 24th Street 75.88 feet by 254.11 feet rectangular-shaped (19,251 square feet).

3. Existing Zoning (site): “N3a” Neighborhood District.

4. Existing Land Use (site): One-household dwellings.

5. Adjacent Land Use and Zoning:

   - North - “NX2”, Use is an independent senior living multiple-household dwelling.
   - South - “N3a”; Uses are one-household dwellings.
   - East - “P2”; Use is Assembly, Place of Worship.
   - West - “N3a”; Uses are one-household dwellings and interstate freeway.

6. General Neighborhood/Area Land Uses: The subject property is in a transitional area between mixed-use to the north, I-235 freeway to the west and one-household living neighborhood to the east and south.

   Applicable Recognized Neighborhood(s): The subject property is located within the Fairmont Park Neighborhood and within 250 feet of an area jointly considered the Douglas Acres Neighborhood. A notice of the meeting was mailed on November 23, 2020 to the Fairmont Park Neighborhood, the Douglas Acres Neighborhood and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on November 25, 2020.
The Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317, and the Douglas Acres Neighborhood mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317.

7. **Relevant Zoning History:** The City’s new Zoning Ordinance took effect on December 15, 2019, at which time the property became zoned “P2” Public, Civic and Institutional District. This was based on the drafting of the Zoning Map to reflect it as part of the church property at the time.

On May 17, 2020 by Ordinance No. 15,896 the City Council rezoned the property from “P2” Public, Civic and Institutional District to “N3a” Neighborhood District allowing one household dwellings as a permitted use.

8. **PlanDSM Land Use Plan Designation:** The property is designated as Low Density Residential.

9. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews Public Hearing Site Plans pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance. The Site Plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:

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

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

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

  ➢ Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Traffic and Circulation Standards: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.” Section 106-137 of the Subdivision Ordinance requires that sidewalks shall be constructed by the subdivider on all new and existing streets, within the street right-of-way and public pedestrian walk right-of-way in accordance with the standard specifications. However, in the interest of a better arrangement of pedestrian circulation and to accommodate special design features of the development, this requirement may be waived or alternative locations required as approved by the plan and zoning commission and the council.

2. Staff Rationale: The applicants have cited several challenges in providing the required sidewalks for the three house sites. This includes challenges due to existing grades in alignment with the Rights-Of-Way (ROWs) and further extension to adjoining properties, existing locations of mature trees that would impact the sidewalk, and work to removed, need for expensive retaining wall and the need to reconstruct driveways already in place for the homes. The original builder owns one of the properties (3341 East 24th Street), and the buyers of the other two properties (3335 and 3323 East 24th Street) have indicated a preference to not install the public sidewalks adjoining their properties.

In consultation with Engineering staff for the City and reviewing the challenges expressed by the applicants, Staff remains of the opinion that the sidewalk installation would not be insurmountable and reasonable in the context of construction of three new homes. There is sidewalk adjoining the existing homes on the west side of the street connecting to existing sidewalk network in the
surrounding neighborhood. Staff believes that MoveDSM Plan seeks to incorporate these sidewalks with new development.

Should the Commission determine that the required sidewalks should be waived, Staff would want an alternative considered as part of any waiver. Engineering staff have also evaluated the conditions on the west side of East 24th Street within the ROW and determined that there would be benefit to extension of the existing walk from its terminus north of the property at 3322 East 24th Street. An 85-foot extension of the existing walk with a ramp into the cul-de-sac at a level point would improve the sidewalk access for the benefit of the occupants of the newly developed homes by providing an access to the neighborhood sidewalk network directly across the street.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested waiver of sidewalk adjoining the new house construction locations of 3341, 3335 and 3323 East 24th Street based on the determination that the sidewalks could be provided reasonable with the ability to design for any practical challenges.

Should the sidewalk installation be waived by the Commission, Staff recommends that the applicants provide an extension of the existing sidewalk, with a required permit in coordination with and review by Engineering Staff, on the west side of East 24th Street from its existing terminus to a point 85 feet north with the Right-Of-Way with an accessible ramp connection one the new terminus to the grade of the street cul-de-sac.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Will Page asked what the extent of the sidewalk was on the west side of the street and how long is East 24th in terms of the stretch from a connector street to the cul-de-sac?

Erik Lundy stated there is sidewalk on the North side of East Tiffin and on the West side of East 24th Street extending down to the “throat” of the cul-de-sac. The indicated 85 feet on the west side of the street would extend down into the “bulb” of the cul-de-sac making for a good accessible ramp.

Will Page asked if it would be correct to say there isn’t much vehicle traffic on this cul-de-sac?

Erik Lundy stated it was limited to local trips mainly and people that don’t know where they are.

Abby Chungath asked if any more houses could be built at the end of the cul-de-sac?

Erik Lundy stated it would be conceivable.

Johnny Alcivar asked if there is sidewalk along the South side of East Tiffin?
Erik Lundy stated yes.

Johnny Alcivar asked if this was one of the last stretches without sidewalk in the area?

Erik Lundy stated there would be a few pockets here and there but this area has an extensive sidewalk network.

Rocky Sposato wanted to clarify staff is willing to accept the waiver if the applicant extends the sidewalk on the West 85 feet?

Erik Lundy stated staff would be asking for the 85 feet as an alternative if the commission approves the waiver.

Rocky Sposato asked if the Northwest corner where the utilities are located would ever typically get a sidewalk?

Erik Lundy stated not likely.

Ted Grob stated they are facing issues with trying to save a tree and ending up with a 3 foot drop where the sidewalk would end. Also, they were told sidewalks weren’t needed at the time the driveways were approved and wouldn’t be able to tear them out because they are no longer the owner of the properties. They are willing to add the 85 feet of sidewalk with the handicap ramp along the West side into the cul-de-sac.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Jason Mullin 3335 East 24th Street stated he agrees with Ted Grob’s comments. They would much rather have the 85 feet of sidewalk added on the West side and not take the chance of losing the tree.

Katlyn Cline 3323 East 34th Street stated she agrees with the comments made by Jason and Ted and doesn’t want to lose her tree.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page stated he finds the applicant agreeing with the 85 feet extension of sidewalk to the west side of the street as a compelling solution to the problem.

Abby Chungath stated she would agree with Will’s comments.

Lisa Howard stated she would support saving the tree and that lack of that little stretch of sidewalk would not make that much difference.

**COMMISSION ACTION:**

Will Page made a motion for approval of the requested waiver of sidewalk adjoining the new house construction locations of 3341, 3335 and 3323 East 24th Street subject to the developer providing an extension of the existing sidewalk, with a required permit in
coordination with and review by Engineering Staff, on the west side of East 24th Street from its existing terminus to a point 85 feet north within the Right-Of-Way with an accessible ramp connection on the new terminus to the grade of the street cul-de-sac.

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

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**Item 8**

Request from Pridecraft Custom Homes (owner) represented by Jason Juran (officer) for review and approval of a Public Hearing Site Plan 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 1416 East 36th Court, to allow waiver of public sidewalk installation required for a new household living dwelling required by Chapter 135 Section 135-8.5.2.

**(BLD2020-02862)**

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is constructing a new 1,237-square single-household dwelling on a vacant lot. The applicant is asking for waiver of the standard that requires them to construct a public sidewalk along Pioneer Road. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 100 feet by 132 feet (6,560 square feet or 0.151 acres)

3. **Existing Zoning (site):** “N3b” Neighborhood District.

4. **Existing Land Use (site):** Vacant lot.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N3b”; Use is a single-household dwelling.
   - **South** – “N3b”; Use is a single-household dwelling.
   - **East** – “N3b”; Uses are single-household dwellings.
   - **West** – “N3b”; Uses are single-household dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Gray’s Woods Neighborhood. The neighborhood association was notified of the public
hearing by mailing of the Preliminary Agenda on November 13, 2020 and by mailing of the Final Agenda on November 23, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 2020 (10 days prior to the public hearing) to the Gray’s Woods Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Gray’s Woods Neighborhood mailings were sent to Karen Shoopman, 3804 Indianapolis Avenue, Des Moines, IA 50317.

8. Relevant Zoning History: N/A.


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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;

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

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

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

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

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

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

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

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

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

2. Staff Analysis: The applicant is in the process of constructing a new single household dwelling. This requires provision of a 5-foot wide sidewalk along the property’s 100 feet of street frontage. The applicant has requested waiver of this requirement since “there are no sidewalks on this street. I think having a sidewalk would be out of place and a negative on value.”

Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. The City Council also noted that this is priority at their April 26, 2019 City Council Planning Session.

The grade contours along E 36th Court would allow for sidewalk to be constructed in this area. While there is not any other sidewalk in proximity to this property, Staff recommends that sidewalks be provided.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face a practical difficulty as it is possible to construct a public sidewalk along E. 36th Court. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is
understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments.

SUMMARY OF DISCUSSION

Erik Lundy stated staff has recommended item #8 be continued to the December 17th Plan and Zoning Commission meeting due to an error on the public notice.

COMMISSION ACTION:

Emily Webb made a motion to continue item #8 to the December 17th Plan and Zoning Commission meeting.

THE VOTE: 12-0

Item 9

Request from Thirty Seven Fifty, LLC (owner) represented by Kate Miller (officer) for review and approval of a PUD Final Development Plan “Thirty Seven Fifty on Grand”, on property located at 3750 Grand Avenue, to allow for redevelopment of the existing vacant First Church of Christ Science with demolition of a portion and addition of an 8-story, 42-unit residential condominium tower with two levels being indoor parking. The building would have first floor permitted uses of business or professional offices, studio or instructional service, assembly, and library or cultural exhibit. (10-2021-7.21)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has demolished the sanctuary and tower portion of the First Church of Christ Scientist building. The northeast and northwest wings have been retained and will be renovated as part of a redevelopment project that includes the construction of an 8-story residential building. The development would include a total of 106 parking spaces with 62 spaces being located within the building. A detached garage with 6 spaces would be provided in the rear parking lot. The site would include a total of 38 surface parking spaces

2. Size of Site: 2.93 acres.

3. Existing Zoning (site): Thirty-Seven Fifty on Grant “PUD” District.

4. Existing Land Use (site): Redevelopment site.

5. Adjacent Land Use and Zoning:
North – “PUD”: Uses are multiple-family residential.

South - “N1b” & “P2”: Uses are single-family residential and Greenwood Elementary School.

East - “NX3”: Use is office.

West - “NX3”: Uses are multiple-family and single-family residential.

6. General Neighborhood/Area Land Uses: The site is located on the southeast corner of the Grand Avenue and 38th Place intersection. The Grand Avenue corridor contains a mix of multiple-family residential, institutional and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Salisbury Oaks Neighborhood and within 250 feet of the Greenwood Historic Neighborhood and the North of Grand Neighborhood. The neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on November 13, 2020 and the Final Agenda on November 25, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 2020 (10 days prior to the meeting) 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 Salisbury Oaks Neighborhood Association mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312. The Greenwood Historic Neighborhood Association mailings were sent to Nicholas Larson, 127 34th Street, Des Moines, IA 50312. The North of Grand Neighborhood Association mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312.

8. Relevant Zoning History: On January 13, 2020, the City Council rezoned the subject property from “R-3” District to “PUD” District by Ordinance Number 15,851. The City Council also approved the Thirty-Seven Fifty Grand PUD Conceptual Plan by Roll Call Number 20-0108. Approval was subject to the following conditions:

a. Removal of the reference to restaurant as a permitted use from the Conceptual Plan.

b. Provision of a note that states, “no more than 2,000 square feet of floor area shall be utilized for commercial uses.”

c. The bulk regulation notes shall be updated to reflect the drawings shown on the Conceptual Plan to the satisfaction of the City’s Planning Administrator.

d. Provision of a note that states, “the finalized height and design of any fencing shall be determined during the review of any Development Plan” in place of the notes on Sheet 1 that provide maximum height and minimum opaqueness standards.
e. Provision of a note that states, “any Development Plan shall minimize the amount of pavement near the main entrance to the building to the extent possible.”

f. Provision of a note that states, “any Development Plan shall provide an identifiable pedestrian route from the main entrance of the building to the Grand Avenue sidewalk.”

g. Provision of a note that states, “landscaping and buffering shall be provided in accordance with the City’s Landscaping Standards in place at the time the Development Plan is submitted, or exceeded as illustrated on the Conceptual Plan or as determined necessary by the City’s Planning Administrator.”

h. Provision of a note that states, “all site lighting shall be directed downward and shielded from adjoining properties. Any pole mounted lighting along private walkways shall not exceed 15 feet in height and any pole mounted lighting in a parking area shall not exceed 20 feet in height.

i. Provision of a note that states, “direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 foot-candles for residential, 2.0 foot-candles for commercial). The Development Plan must contain illuminance models showing light levels throughout the site.”

j. Provision of a note that states, “all utility and similar service lines to buildings on the property shall be located underground.”

k. Provision of a note that states, “all overhead utility and similar service lines within the adjoining portions of the Grand Avenue and 38th Place rights-of-way shall be located underground.

l. Provision of a note that states, “all utility meters, transformers, ground-mounted equipment, and other utilities shall be placed along rear or side facades that are internal to the site to the satisfaction of the City’s Planning Administrator.

m. Provision of a note that states, “all reuse and recycling containers shall be stored within the building or within a trash enclosure constructed of masonry walls with solid steel gates as approved with any Development Plan.

9. PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:
   Neighborhood Mixed Use located in a Community Node.

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Drainage & Grading: All grading is subject to an approved grading permit and soil erosion control plan. The applicant is required to demonstrate compliance with the City’s Stormwater Management requirements to the satisfaction of the City’s Permit and Development Center. A bioretention basin is proposed in the southern portion of the site.

2. Access & Parking: The site is located on the southeast corner of the Grand Avenue and 38th Place intersection. The Development Plan includes single access points to both streets. A total of 106 off-street parking spaces would be provided.

3. Urban Design: The proposed building design is consistent with what was presented with the “PUD” Conceptual Plan. The applicant has shifted the Grand Avenue driveway and associated parking to the east. This allows the main entrance to the building to have a direct sidewalk connect to the Grand Avenue sidewalk and maximizes the front lawn area. The detached garage that is proposed in the rear parking lot was originally envisioned as an open-air carport structure. Staff believes that these two variations are appropriate and consistent with the intent of the PUD Conceptual Plan.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed “PUD” Final Development Site Plan subject to compliance with all administrative review requirements.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Brad Hartman 1011 Locust Street Suite 305 representing the developer stated they are here to answer any questions the commission may have.

Kate Miller 400 Locust Street stated she is available for questions as well.

CHAIRPERSON OPENED THE PUBLIC HEARING

Carol Maher 1510 Center Street asked if residence would have bicycle parking?

Kate Miller stated within their parking garage, there is a bicycle garage. They will have ample bicycle parking, along with a bicycle maintenance kit and wash station.

Carol Maher asked if they would be providing charging stations for electric cars?

Kate Miller stated yes, they are also within the parking garage.
Brad Hartman stated the parking garage will have the ability to charge 50% of the cars. Each car has its own unique charging cord so the power will be available along the front and the residents will need to provide their own charging station and cord.

Carol Maher asked if solar panels will be provided?

Brad Hartman stated given the long and narrow footprint of the roof, it was hard to rationalize the cost based off the benefit the panels would provide. This is something that could be added in the future.

Joseph Lakers 3667 Grand Avenue Unit 14 asked if this would be a modification to the existing PUD?

Jason Van Essen stated this is the finalized PUD Development Plan or site plan, the development was approved previously with the rezoning and concept of the building. This will be finalizing the engineering and construction design details of the project.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones made a motion for approval of the proposed “PUD” Final Development Site Plan subject to compliance with all administrative review requirements.

THE VOTE: 12-0

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Committee and Director’s Reports:

Dory Briles asked for volunteers to form a nomination committee for next year’s slate of officers.

Nomination Committee: Carolyn Jension, Lisa Howard and Emily Webb.

Meeting adjourned at 7:32pm