The December 17, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 832 3863 0335.

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

P&Z ABSENT: Will Page and Emily Webb

STAFF PARTICIPANTS: Mike Ludwig, Bert Drost, Jason Van Essen, Katherine Drahos, Erik Lundy, Judy Parks-Kruse, Laura Peters and Tyler Hall.

Dory Briles made a motion to approve the December 3, 2020 Plan and Zoning Commission meeting minutes. Motion carried 12-0

Jann Freed noted that if there was no opposition present or requests to speak regarding Item #5, it can be moved to the consent agenda. No one was present or requested to speak.

Jann Freed noted that if there was no opposition present or requests to speak regarding Item #6, it can be moved to the consent agenda. No one was present or requested to speak.

Jann Freed noted that if there was no opposition present or requests to speak regarding Item #7, it can be moved to the consent agenda. A member of the public requested to speak.

Dory Briles made a motion to move items #5 and #6 to the consent agenda. Motion Carried 12-0

Greg Wattier made a motion to approve consent agenda items #5 and #6. Motion Carried 12-0

Bert Drost advised the applicant for item #1 has requested a continuance to the January 21, 2021 meeting for more time to meet with the Neighborhood Association.

Erik Lundy advised the zoning enforcement office has requested a continuance of item #9 to the January 21, 2021 to allow more time for review.

Abby Chungath made a motion to continue items #1 and #9 to the January 21, 2021 meeting. Motion Carried 12-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 5

Request from James Andrew and Nancy Albright-Andrew (owners) for the following regarding the property at 3900 Southeast 34th 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 Park and Open Space with Development Control Zone overlay to Low Density Residential.

C) Rezone property from “F” Flood District to “N2b” Neighborhood District to allow the property to be filled and developed with a One Household Living Dwelling use.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to develop a One Household Living dwelling on the property by filling a portion so that it may be removed from the regulatory floodplain.

2. Size of Site: 1 acre. The overall property owned by the applicant is 13.272 acres.


4. Existing Land Use (site): Vacant land currently listed as Forest Reserve by Polk County.

5. Adjacent Land Use and Zoning:
   
   North – “F” & “P1”; Uses are floodplain used for agriculture and wastewater pumping station.
   
   South – “N2a”; Uses are One Household Living dwellings.
   
   East – “N1a” & “F”; Use is a One Household Living dwellings.
   
   West – “N2b” & “F”; Use is vacant land.

6. General Neighborhood/Area Land Uses: The subject property is in a transitional fringe area between the Des Moines River floodplain, rural acreage development and One Household Living subdivision development.

7. Applicable Recognized Neighborhood(s): The subject property is in the Easter Lake Area Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (23 days prior to the hearing due to Thanksgiving postal holiday) and December 7, 2020 (10 days prior to the hearing) to the Easter Lake Area 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 Easter Lake Area Neighborhood Association notices were mailed to Jim Bollard, 4007 SE 26th Street, Des Moines, IA 50320.

8. **Relevant Zoning History:** The subject property was zoned to “F” Flood District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019. This designation reflects the Federal Insurance Rate Map (FIRM) revisions approved by the Federal government in February 2019.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Parks and Open Space and Development Control Zone overlay.

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 “Park and Open Space” and “Development Control Zone” overlay. Plan DSM describes these designations as follows:

   **PARKS AND OPEN SPACE**
   Land or water areas generally free from development. Primarily used for park and recreation purposes but may also indicate private or public open spaces reserved for natural resource conservation.

   **DEVELOPMENT CONTROL ZONE**
   Areas that are sensitive to development, such as airport runway protection zones, flood hazard areas, etc.
   Applicable portions of PlanDSM Creating Our Tomorrow:

   **Goal 8**
   Recognize the value of ecologically sensitive land and natural resources and ensure preservation of these areas for future residents and urban vitality.

   **LU40:** Prohibit development in identified ecologically sensitive and critical areas to limit impacts of construction and land disturbing activities.
LU42: Permit reasonable development of land that addresses environmental constraints and minimizes disturbance of natural habitats.
LU43: Regulate development in flood prone areas to protect from damage to public health, safety, and property.

Staff believes the proposed rezoning could be determined in conformance with these goals and objectives and be appropriate at the fringe of ecologically sensitive land given the location of the subject property on a public street with access to necessary public utilities, so long as the property is able to be modified to remove it from any recognized flood hazard and mitigate the removal of trees. Any development and filling of the property must be sensitive to requirements for tree removal and mitigation and all floodplain development requirements of Chapter 50 of the City Code.

Because of the proximity of the project to One Household Living uses in the neighborhood to the south, Staff would want to further ensure any modification of the flood hazard area would be designed to prevent any shifting of the impact onto nearby properties. Recent updates to Chapter 50 of the City Code help insure that filling in the floodplain be done in a fashion that actually improves the displaced volume by increasing it using a ratio of 1.5 cubic yard of displacement provided for every 1 cubic yard of fill.

2. **Engineering Comments:** This proposed development of the property would be required to meet all Chapter 50 requirements of the City Code for floodplain development. Engineering Staff communications with the applicant’s consultant indicates that based on the proposed structure location that the owner would need to build the house on fill. Any rezoning and permitting should be conditioned on the owner having an approved Conditional Letter of Map Revisions based on Fill (CLOMR-F) from the Federal government. Once the project would be completed, the condition should require follow-up with a formal Letter of Map Revisions based on Fill (LOMR-F) which would provide the as-built conditions.

3. **Planning and Design Ordinance:** Any development for a One Household Living dwelling must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. For the proposed “N2b” Neighborhood District, this would involve reviewing any One Household Living dwelling under the House Type A regulations in the Chapter. The applicant has provided a concept of the proposed dwelling. This would be subject to a separate full review under the International Residential Code and Chapter 135 requirements. Staff recommendation of conditional approval of the proposed rezoning should not be construed as support for the submitted concept for the proposed dwelling.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “N2b” Neighborhood District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Parks and Open Space and Development Control Zone overlay.
Part B) Staff recommends approval of the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Parks and Open Space with Development Control Zone overlay to Low Density Residential.

Part C) Staff recommends approval of rezoning the subject property from “F” Flood District to “N2b” Neighborhood District, subject to the following conditions:

1. Any site modification, filling and permitting of development must have an approved Conditional Letter of Map Revisions based on Fill (CLOMR-F) from the Federal government. Upon completion of any permitted development, the owner shall obtain a formal Letter of Map Revisions based on Fill (LOMR-F) that would provide the as-built conditions.

2. Any site modification, filling and permitting shall be subject to the requirements of Chapter 50 of the City Code for floodplain development.

3. Any removal of trees for any development of the property shall comply with tree mitigation requirements as applicable to a commercial Site Plan or Subdivision approval.

SUMMARY OF DISCUSSION

Jann Freed noted that if there was no opposition present or requests to speak regarding Item #5, it can be moved to the consent agenda. No one was present or requested to speak.

Dory Briles made a motion to move items #5 and #6 to the consent agenda. Motion Carried 12-0.

COMMISSION ACTION:

Greg Wattier made a motion for approval of Part A) the proposed rezoning to “N2b” Neighborhood District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Parks and Open Space and Development Control Zone overlay, Part B) APPROVAL of the proposed amendment of the PlanDSM Creating Our Tomorrow future land use designation from Parks and Open Space with Development Control Zone overlay to Low Density Residential and Part C) APPROVAL of rezoning the subject property from “F” Flood District to “N2b” Neighborhood District, subject to the following conditions:

1. Any site modification, filling and permitting of development must have an approved Conditional Letter of Map Revisions based on Fill (CLOMR-F) from the Federal government. Upon completion of any permitted development, the owner shall obtain a formal Letter of Map Revisions based on Fill (LOMR-F) that would provide the as-built conditions.
2. Any site modification, filling and permitting shall be subject to the requirements of Chapter 50 of the City Code for floodplain development.

3. Any removal of trees for any development of the property shall comply with tree mitigation requirements as applicable to a commercial Site Plan or Subdivision approval.

THE VOTE: 12-0

Item 6

Request from Kruse Construction, LLC (owner) represented by Dan Kruse (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 5702 Wolcott Circle, to allow the construction of a House Type A with a 25-foot wide paved driveway with an impervious coverage for the front yard area of 663.00 square feet (39.36%) which is greater than the maximum 25% (422.20 square feet) of the front yard area allowed per Chapter 135 Section 135-2.13.3.E.1.  

(BLD2020-01806)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has finished construction of a new home on the subject property. The applicant provided a site plan with the building permit application that showed a 16 feet wide driveway. Staff issued a permit for an 18 feet wide driveway approach, which is a typical dimension for a two-car attached garage. The builder set forms for a 25 feet wide driveway approach and the inconsistency between the forms, the approach permit and the site plan was not identified by right-of-way field inspection staff. The approach was poured and a matching 25 feet wide concrete driveway was paved from the back of the sidewalk to the oversized attached garage. There are also 3' wide landscape rock bands on both sides of the 25 feet wide concrete driveway. Upon final inspection of the house prior to occupancy, the zoning inspector identified that the driveway violated the approved site plan and building permit. The applicant is asking to retain the existing 25 feet wide driveway.

2. Size of Site: 9,054 square feet

3. Existing Zoning (site): N2b, Neighborhood District

4. Existing Land Use (site): Low Density Residential
5. **Adjacent Land Use and Zoning:**

   **North** – N2b; Low Density Residential  
   **South** – N2b; Low Density Residential  
   **East** – N2b; Low Density Residential  
   **West** – N2b; Low Density Residential

6. **General Neighborhood/Area Land Uses:** The subject property in the Southwoods Estates Plat 2, low density residential development.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Southwestern Hills Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on November 30, 2020 and the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 25, 2020 (20 days prior to the hearing) and on December 7, 2020 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

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

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

1. PlanDSM: Goal 6 of the Public Infrastructure and Utilities Chapter of PlanDSM is to ensure clean, safe water resources are equitably available to all current and future residents. Policy PIU 35 calls for the City to minimize sources of water pollutants in urban runoff through storm water detention, on site water treatment technologies including green infrastructure, and the implementation of pollution prevention programs. One of the primary regulations of Chapter 135 that reduces pollution of waterways is a limit on impervious surface area for private development.

2. Type 2 Design Alternative Requested: Allow impervious surface in excess of the maximum allowed area of 25%. Section 135-6.12.3 of the Planning and Design Ordinance states “for one and two household unit buildings in N or NX Districts the minimum driveway width is eight feet and no more than 25% of the front yard shall be used for driveway and off-street parking purposes from a paved access. This shall not prohibit construction of a 20 foot wide driveway, or a driveway expansion immediately in front of, and the minimum width reasonably necessary to provide access to a three or four car garage from a paved access.” The existing 25 feet wide driveway is an impervious surface that is 39.36% of the...
front yard area and exceeds the maximum 32.5% of impervious area that can be granted by staff with a Type 1 Design Alternative.

3. **Staff Analysis:** The applicant has finished construction of a new home on the subject property. The applicant provided a site plan with the building permit application that showed a 16 feet wide driveway. Staff issued a driveway permit for an 18 feet wide driveway and drive approach, which is a typical dimension for a two-car attached garage.

The applicant failed to notify City planning staff of this increase in driveway size. City right-of-way inspection staff also did not catch the increase in driveway size prior to the drive approach being poured. When the final inspection was completed, the zoning inspector correctly identified the driveway and drive approach violated the approved site plan.

The intent of the total impervious coverage requirement is to help reduce storm water runoff that impacts the capacity of the City’s overall storm sewer infrastructure and water quality in rivers and streams.

The applicant requests to retain the driveway at 25’ wide without having to reduce the width to comply with the code requirement. The applicant states that reducing the driveway width would require the sod and irrigation systems to be modified at a significant cost.

Staff does not want this situation to be repeated. While one inspection did not identify a discrepancy between field conditions and approved plans prior to the driveway approach being poured, the builder has a responsibility to build projects per approved plans or seek amendments to the approved plans prior to construction of variations, not after. Staff will generally be unsupportive of future requests for retroactive relief.

Staff does find the paved driveway is compatible with the width of the oversized garage, but believes that shrubs or ornamental grasses should be planted in the landscape rock bands on both sides of the driveway to absorb a greater portion of rainfall and reduce storm water runoff.

### III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternative to retain the 25’ wide driveway subject to installation of shrubs and/or ornamental grasses within the 3’ wide landscape rock bands on both sides of the driveway to the satisfaction of the Planning Administrator.

### SUMMARY OF DISCUSSION

Jann Freed noted that if there was no opposition present or requests to speak regarding Item #6, it can be moved to the consent agenda. No one was present or requested to speak.
Dory Briles made a motion to move items #5 and #6 to the consent agenda. Motion Carried 12-0.

COMMISSION ACTION:

Greg Wattier made a motion for approval of the requested Type 2 Design Alternative to retain the 25’ wide driveway subject to installation of shrubs and/or ornamental grasses within the 3’ wide landscape rock bands on both sides of the driveway to the satisfaction of the Planning Administrator.

THE VOTE: 12-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

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 for the December 3, 2020 Plan & Zoning Commission meeting on November 13, 2020 and by mailing of the Final Agenda for the December 3, 2020 Plan & Zoning Commission meeting on November 25, 2020 and the Final Agenda for the December 17, 2020 Plan & Zoning Commission meeting on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 2020 (10 days prior to the December 3, 2020 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.

Staff also recommends provision of a note stating that all lighting used to illuminate off-street parking areas must use full-cutoff directional lighting to prevent glare and light spillover onto streets and abutting N-zoned lots.

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. This would require side and rear buffer plantings to lessen impact on adjoining residential properties.

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 for 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.

Staff recommends a note be added to the PUD Conceptual Plan that any future PUD Final Development Site Plan (required prior to any construction) shall include a statement by a licensed engineer certifying that the stormwater basin on the southern portion of the site functions as designed.

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. All lighting used to illuminate off-street parking areas shall use full-cutoff directional lighting to prevent glare and light spillover onto streets and abutting N-zoned lots.

6. Any new parking area shall be landscaped in accordance with the requirements applicable in the “NX3” District. This requires side and rear buffer plantings to lessen impact of any parking on adjoining residential properties.

7. Any future PUD Final Development Site Plan for the site shall require certification by a licensed engineer that the stormwater basin on the southern portion of the site functions as designed.

8. 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.

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

SUMMARY OF DISCUSSION

Bert Drost advised the applicant for item #1 has requested a continuance to the January 21, 2021 meeting for more time to meet with the Neighborhood Association.
COMMISSION ACTION:

Abby Chungath made a motion to continue item #1 to the January 21, 2021 meeting.

THE VOTE: 12-0

Item 2

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 feet 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 East 36th Court. 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 December 7, 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 50 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 presented staff report and recommendation.

Jason Juran 10470 Clark Street, Clive stated he understands the importance of MoveDSM. The concern wouldn’t involve the financial burden as it would only cost $750 to install but there are no sidewalks in the area. MoveDSM is a 25-year plan and with this area being low priority, sidewalks won’t be installed in this area for some time.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Francis Boggus stated it’s a lot to ask when this area is a low priority in MoveDSM plan and would grant the waiver of the sidewalk.

Abby Chungath stated she would like resolution on these issues soon as it has been a common issue recently. She does support MoveDSM but it does seem silly to put in a sidewalk where there may not be sidewalks for 10-20 years.

Johnny Alcivar stated he also shares the same concerns and the commission needs to figure out a way to move forward. It doesn’t make sense for this house but if we continue to follow this pattern, sidewalks will never be installed until the City installs them.

Rocky Sposato stated his hope as a commission is that they stay consistent until the sidewalk committee has an opportunity to discuss these issues and come up with a recommendation the board agrees with.

**COMMISSION ACTION:**

Francis Boggus made a motion for approval of the requested Type 2 Design Alternative to waive the sidewalk requirement.

**THE VOTE:** 10-2 (Johnny Alcivar and Abby Chungath voted in opposition).

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Item 3

Request from Des Moines Public Schools (owner) represented by Darrell Gierstorf (officer) for the following items related to the stadium project proposed for 2450 Forest Avenue:

A) Review and approval of a Preliminary Plat “Drake Community Stadium at Drake University Plat 1” for subdivision of a 4.609 acre lot for the stadium. (13-2021-1.12)

B) Review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B Public Hearing Site Plan “Drake Community Stadium at Drake University” to allow construction of a 4,000 seat outdoor multipurpose stadium reviewed as a Civic Building Type in a “P-2” District: (10-2021-7.27)

1) Allow impervious surface in excess of the maximum allowed area of 70% per Section 135-2.10.3.A.7. As proposed, the site area would be 96.1% impervious.

2) Allow 15 less than the minimum required 15 feet of setback from non-primary frontage per Section 135-2.10.3.A.4. The structures located within 0 feet of the east property line and within 4.5 feet of the north property line.

3) Allow less than the minimum 12% transparency per each story and any half story per Section 135-2.10.3.D.17.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed Preliminary Plat and Site Plan would allow construction of a 4,000-seat outdoor multipurpose stadium. For Site Plan purposes, the stadium is being reviewed as a Civic Building Type in a “P-2” District.

2. Size of Site: 4.61 acres.


4. Existing Land Use (site): The subject property has recently been cleared for redevelopment.

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 northeast corner of Drake University’s campus.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 7, 2020 (10 days prior to the hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** On December 10, 2020, the City Council rezoned the subject property from “PUD” Planned Unit Development District, “RX1” Mixed Use District and “N5” Neighborhood District to “P2” Public, Institutional and Civic District.

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

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews proposed Preliminary Plats in accordance with Chapter 106 of the City Code and may approve the Preliminary Plat, approve the Preliminary Plat subject to revisions, or deny the Preliminary Plat. Record of the Commission’s decision will be forwarded to the City Council to receive and file.

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 INFORMATION

1. Type 2 Design Alternative Requested: Allow impervious surface in excess of the maximum allowed area of 70%. Section 135-2.10.3.A.7 of the Planning and Design Ordinance applicable to Civic buildings within the “P2” District allows for a maximum 85% of the site to be impervious and semi-impervious. As proposed, the
site area would be 96.1% impervious. This includes the artificial turf on the field, which would have an impervious surface beneath the turf. Staff believes that in this instance, the proposed amount of impervious surface is appropriate given the limited area available for the stadium.

2. **Type 2 Design Alternative Requested: Allow 15 feet less than the minimum required 15 feet of setback from non-primary frontage.** Section 135-2.10.3.A.4 of the Planning and Design Ordinance applicable to Civic buildings within the “P2” District requires principal buildings to have a minimum 15-foot setback from non-primary frontages. As proposed the structure would be located within 0 feet of the east property line and within 4.5 feet of the north property line. Staff believes that the proposed setbacks are appropriate given the required size of the stadium and the limited ability to assemble additional land.

3. **Type 2 Design Alternative Requested: Allow less than the minimum 12% transparency per each story and any half story:** Section 135-2.10.3.D.17 of the Planning and Design Ordinance applicable to Civic buildings within the “P2” District requires a minimum 12% of each story to be transparent. In this instance, Staff believes that it would not be reasonable for the stadium to meet the transparency requirement given that significant portions of the façade are the backsides of bleachers.

4. **Type 1 Design Alternatives:** In addition to the Type 2 Design Alternatives, the proposed Site Plan also requires Type 1 Design Alternatives with regards to fencing height, landscaping, mechanical equipment placement, and building materials. These Type 1 Design Alternatives can be approved administratively.

5. **Off-Street Parking:** The proposed 4,000-seat stadium requires provision of 667 off-street parking spaces. The applicant has indicated that these parking spaces would be achieved by obtaining a parking agreement with Drake University to use parking spaces within existing parking lots within 750 feet of the site. Final approval of the Site Plan will be contingent upon the provision of a shared parking agreement that is reviewed and approved by Staff in accordance with City Code Section 135-6.5.4.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends approval of the Preliminary Plat “Drake Community Stadium at Drake University Plat 1” for subdivision of a 4.609-acre lot for the stadium, subject to compliance with all administrative review comments from the City’s Permit & Development Center.

Part B) Staff recommends approval of the requested Type 2 Design Alternatives for the Public Hearing Site Plan, subject to the following conditions:

1. Compliance with all administrative review comments from the City’s Permit & Development Center.
2. Provision of a shared parking agreement, in accordance with City Code Section 135-6.5.4, for the minimum number of required off-street parking spaces

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Johnny Alcivar asked if the shared parking agreement is needed in case Drake decides to sell the parking lot in the future?

Bert Drost stated yes, the agreement is needed to make sure those parking spots are provided if Drake would ever sell the lot.

Matt Coen 301 Grand Avenue representing RDG stated the synthetic playing field which accounts for 2.4 acres out of the 4.6 acres of the site does not qualify as impervious space, however it does slow down rain water significantly. They will be using this entire site for the stadium and is contextual to the area. Forest Avenue in both directions includes zero set back conditions, along with 24th and 25th Street. There would be no harm to the East as there is a postal facility in that direction. To the North where there are several residential properties, they do have a 27-foot setback on the north. The only structures near the property line would be the fence and scoreboard. Along the East, the concessions building has an 8-foot setback and the bleachers at the most extreme condition has a 7-foot setback. Regarding transparency, there is a 9-foot gap between the lower and upper seating levels that runs the entire length of the site at sidewalk level. On the East side they have a total of 84-feet of building frontage out of the 465 feet with the bleachers being 200 feet long.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Dan Pardock 4118 Lower Beaver Road stated he was curious of the name shown on the plat as he believed the stadium is supposed to be named the DMPS Community Stadium. He feels the cart has been put before the horse as the stadium is already under construction and is curious why they are here talking about these requests tonight. He would like to know what type of assurance DMPS has from Drake regarding available parking when cars owned by students will be parked in the lots over the weekend.

Judy Park-Kruse stated the name on a plat or a site plan is not necessarily tied to or signifying ownership.

Bert Drost stated the name on the plat doesn’t match the name on the public notices that were sent out and could be corrected on the final plan submittal if desired.

Jann Freed asked if the question regarding parking could be answered?

Bert Drost stated the site plan will need to comply with the City’s parking requirements. A 4,000 seat stadium would require provision of 667 off street parking spaces. A parking analysis was done, which shows the 667 off street parking spots can be
achieved within the required 750-foot radius of the site. Staff requests that a parking agreement be provided between Drake and DMPS as a condition of approval.

Matt Coen stated there will be a more detailed parking agreement and there is currently a 28E agreement between DMPS and Drake. The traffic analysis also shows adequate parking within .25 and .50-mile radius beyond the site, which would accommodate just over 1,400 cars.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Greg Wattier stated these requests are reasonable and make sense for this site with the solutions being adequate. He would be in support of this request.

Bert Drost stated if staff recommendation is approved, he would suggest they revise it to say, DMPS Community Stadium at Drake University.

**COMMISSION ACTION:**

Greg Wattier made a motion for approval of Part A) **APPROVAL** of the Preliminary Plat “DMPS Community Stadium at Drake University Plat 1” for subdivision of a 4.609-acre lot for the stadium, subject to compliance with all administrative review comments from the City’s Permit & Development Center.

**THE VOTE:** 11-1 (Rocky Sposato voted in opposition).

And for Part B) **APPROVAL** of the requested Type 2 Design Alternatives for the Public Hearing Site Plan, subject to the following conditions:

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

2. Provision of a shared parking agreement, in accordance with City Code Section 135-6.5.4, for the minimum number of required off-street parking spaces

**THE VOTE:** 10-2 (Greg Jones and Rocky Sposato votes in opposition).

Item 4

Request from Campbell’s Holdings, LLC (owner) represented by Eric Campbell (officer) for the following regarding the property at 3104 East Court Avenue:

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
B) Rezone property from “N5” Neighborhood District to “I1” Industrial District to allow the property to be used for industrial uses such as outdoor storage.  

(ZON2020-00150)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to rezone the property to allow industrial uses, such as outdoor storage.

   Sometime after April 2018, significant vegetation was removed from the property and a large graveled parking lot was constructed.

   Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance

2. Size of Site: 41,382 square feet (0.95- acre).

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

4. Existing Land Use (site): The triangular-shaped property contains a one-household residential building and a graveled parking area, which extends on the property adjacent to the south that is zoned “I1” District.

5. Adjacent Land Use and Zoning:

   North – “I1”; Uses are a railroad and an undeveloped lot.
   South – “I1” & “F”; Use is a graveled parking lot.
   East – “I1”; Use is an undeveloped lot.
   West – “I1”; Uses are a railroad and an undeveloped lot.

6. General Neighborhood/Area Land Uses: The subject property is in an area to east of Southeast 30th Street where uses transition from residential to the north to industrial to the south.

7. Applicable Recognized Neighborhood(s): The subject property is within 250 feet of the Fairground Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (20 days prior to the hearing) and December 7, 2020 (10 days prior to the hearing) to the Fairground 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 Fairground Neighborhood Association mailings were sent to Laura Mundy, PO Box 473, Pleasant Hill, IA 50327.

Due to the COVID-19 pandemic, the applicant was unable to hold a neighborhood meeting. The applicant mailed a letter to surrounding property owners on November 17, 2020. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** On December 16, 2019, the subject property was rezoned from “M-1” Light Industrial District to “N5” Neighborhood District, as part of the Citywide rezoning established by Ordinance 15,818.

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

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. **Zoning Enforcement:** On March 12, 2020, a notice of zoning violation was issued for the subject property after it was discovered that, “Upon inspection there was found to be trucking & transportation terminal use and/or outdoor equipment & material storage use in the areas of property zoned N5 and F, which are not principal or accessory allowed uses in the N5 zoning district and F zoning district”, and that, “Upon inspection there was found to be a change in use (changed from use of single family dwelling to use(s) of trucking & transportation terminal and/or outdoor equipment & material storage) and changes made to property and adjacent areas without first obtaining a certificate of zoning compliance.” The rezoning is the first step that is required to remedy the zoning violation. Staff notes that the applicant has only requested rezoning of their property that is zoned “N5” District, and has not requested rezoning of their property to the south that is zoned “F” Flood District.

2. **Planning and Design Ordinance:** Any development or outdoor storage area must comply with all applicable Site Plan and Design regulations contained in Chapter 135 Planning and Design Ordinance.

3. **PlanDSM Creating Our Tomorrow:** The proposed “I1” Industrial District is compatible with the Industrial future land use designation. Plan DSM describes this
designation as: “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.” There is a Development Control Zone overlay designation at the extreme southwestern corner and eastern edges of the property based on the Federal Insurance Rate Map information. Any development in these areas would have to comply with floodplain development regulations in Chapter 50 of the City Code.

4. **Permitted Uses:** The requested “I1” Industrial District does not allow for any residential use. Therefore, if the rezoning is approved, the existing one-household residential use would become a non-conforming use and would be required to cease.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “I1” Industrial District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “I1” Industrial District, subject to the condition that there shall be no residential use upon the property.

**SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Johnny Alcivar asked if there will be a tree mitigation plan for the trees removed?

Bert Drost stated yes, they would need use the canopy method to calculate how many replacement trees are needed.

Brett Osborn 974 73\textsuperscript{rd} Street Suite 16, WDM stated this property has always been zoned M1 up until 2019. The reason for violation isn’t because of doing something inconsistent with the zoning ordinance but simply the owner not aware of the property being rezoned by the City of Des Moines. They are asking for this property to be rezoned back to where it was before 2019.

Rocky Sposato asked if the applicant agrees with staff recommendation?

Brett Osborn stated yes.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was preset or requested to speak.
CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Francis Boggus made a motion for approval of Part A) the proposed rezoning to “I1” Industrial District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) APPROVAL of rezoning the subject property from “N5” Neighborhood District to “I1” Industrial District, subject to the condition that there shall be no residential use upon the property.

THE VOTE: 12-0

Item 7

Request from February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer) for the following regarding the property at 601 Army Post Road and 6302 Southwest 6th Street. The subject property titleholders are Joseph and Deborah Madonia:

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 Mixed Use within a Community Node. (21-2020-4.29)

C) Rezone property from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed Use District allow the property to be developed for Animal Service, Veterinary and Boarding uses. (ZON2020-00152)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to clear the site and construct a veterinarian clinic with an outdoor dog run. They currently operate at 6301 SW 9th Street and have outgrown that location.

2. Size of Site: 1.751 acres.

3. Existing Zoning (site): “N3a” Neighborhood District and “NX2” Mixed Use District.

4. Existing Land Use (site): One household dwelling and vacant land.

5. Adjacent Land Use and Zoning:
6. General Neighborhood/Area Land Uses: The subject property is located along the north side of Army Post Road. A mix of commercial and residential uses are located along the corridor. The neighborhood to the north predominately consists of one household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Fort Des Moines Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (20 days prior to the hearing) and December 7, 2020 (10 days prior to the hearing) to the Fort Des Moines 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 Fort Des Moines Neighborhood Association mailings were sent to Scott Durham, 301 E. Kenyon Avenue, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Most of the site is designated Community Mixed Use. A portion of the site with frontage on Lally Street is designated Low Density Residential. The entire site is located within a Community Node that is centered on the Army Post Road and Southwest 9th Street intersection.

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: Most of the site is designated as Community Mixed Use on the Future Land Use Map. A portion of the site with frontage on Lally Street is designated as Low Density Residential. The entire site is located within a

   North – “N3a”; Uses are one household dwellings.

   South – “MX2”; Uses are commercial.

   East – “MX2”; Use is a senior housing development.

   West – “MX2”; Use is a self-service carwash.
Community Node. The “MX2” and “MX3” Districts can both be found in conformance with the Community Mixed Use designation. Therefore, the Future Land Use Map only needs to be amended where the site is designated for Low Density Residential for the proposed rezoning to be found in conformance with PlanDSM. These future land use designations are described by PlanDSM as follows:

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

**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.

Most of 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 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. Staff recommends that any rezoning to the “MX3” District only allow the added ability to have an animal boarding use 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:** Section 134-3.5.2 of the Zoning Ordinance requires outdoor boarding and outdoor exercise runway area to be separated by at least 200 feet from a “N” or “NX1” District. The subject property adjoins property that is zoned “N3a” District and is not large enough to provide 200 feet of separation. Therefore, the applicant must obtain a Variance of this requirement from the Zoning Board of Adjustment if they want to pursue having an outdoor run. If they are not able to obtain a Variance an employee would have to exercise dogs using a leash. For a Variance to be granted, the applicant must demonstrate that they cannot yield a reasonable return from the property and have been deprived of all beneficial or productive use of the subject property without the relief.

3. **Planning and Design Ordinance:** Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

**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 Low Density Residential.

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

Part C) Staff recommends approval of rezoning the subject property from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX2” District, and Boarding uses as defined by the Animal Service Use Category.

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 staff report and recommendation.

Cory Sharp 604 E Grand Avenue representing FEH Design stated the owners have owned this property for a few years and had plans to build a new facility. Their current practice is a few blocks West on SW 9th Street and have outgrown that facility. There are some existing asphalt paved areas and existing residence on the NE corner of the site that would be removed for water detention and a new parking lot. They are requesting the MX3 zoning as they are finding it difficult to meet the requirements within the MX2 zoning.

Greg Wattier asked if the applicant agrees with staff recommendations?
Cory Sharp stated yes.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Rocky Sposato made a motion for approval of Part A) the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part C) **APPROVAL** of rezoning the subject property from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX2” District, and Boarding uses as defined by the Animal Service Use Category.

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

**THE VOTE: 12-0**

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**Item 8**

Request from Kristine McVicker (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 3848 River Oaks Drive, to allow for construction of a new House Type B dwelling. (BLD2020-02926)

A) Waiver of public sidewalk installation required by Section 135-8.5.2.

B) Allow the story height (floor to floor) of the upper story to be 11 feet, which is 2 feet over the maximum allowable story height of 9 feet per Section 135-2.14.3.B.14 and Section 135-9.2.3.A.5.
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is constructing a new 3,911-square feet single-household dwelling on a vacant lot, where another single-household dwelling was recently demolished. The proposed house is two stories exterior with multiple interior levels and floor heights. The applicant is asking for waiver of the standard that requires them to construct a public sidewalk along River Oaks Drive. The applicant is also requesting a Type 2 Design Alternative to allow for a floor height of 11-feet on the upper level, which is two feet over the maximum allowable floor height for a House Type B dwelling.

2. Size of Site: 21,078 square feet or 0.484 acres

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

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

5. Adjacent Land Use and Zoning:
   - North – “N3a”; Use is a single-household dwelling.
   - South – “N1a”; Use is railroad right-of-way
   - East – “N3a”; Uses are single-household dwellings.
   - West – “N3a”; 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 Salisbury Oaks Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 7, 2020 (10 days prior to the public hearing) to the Salisbury Oaks 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 Salisbury Oaks Neighborhood mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312.

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 135-8.5.2.A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.” 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 105 feet of street frontage. The applicant has requested waiver of this requirement due to lack of sidewalks on this street.

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.

2. Floor Height: Section 135-2.14.3.B.14 states the maximum height for all stories is 9-feet. A Type 1 Design Alternative allows for an increase of the floor height up to one foot on non-ground floor stories. The applicant is proposing a floor height of 11-feet on the top level of the dwelling, which includes the kitchen and family room. This is one-foot greater than the maximum allowed for a Type 1 Design Alternative.

3. Approved Type 1 Design Alternatives:
   A. The proposed flat roof was approved by staff with a Type 1 design alternative per Section 135-9.2.3.A.7
   B. The eave height at the west side of house, as measured to the canopy overhang, is 19'-4." This is an increase of 20.6% over the maximum permitted eave height of 16-feet for a two-story house. A Type 1 design alternative was approved by staff per Section 135-9.2.3.B.2

III. STAFF RECOMMENDATION

Part A) Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. 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. While there is not any other sidewalk in proximity to this property, Staff recommends that sidewalks be provided.

Part B) Staff recommends approval of the requested Type 2 Design Alternative to allow an 11-foot floor height on the upper level.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Philip Vlieger 1163 24th Street stated this is a difficult site to develop due to the 13-feet of slope from side to side and 30-feet of slope front to back. The first floor would be at
9 feet, the second floor at 8 feet, which would align with the zoning in the area. If they were to build a standard 2-story house with a 5/12 roof pitch, it would be 4-foot taller than the existing house. The front of the house is equal to a house that has a 9-foot and 8-foot floor height but as you move to the back, those levels go down in elevation. There are no sidewalks in the area and believe adding one sidewalk would appear to be disjointed. To the best of his knowledge, there are no plans in place for sidewalks in this area.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

David Gosnell 3901 River Oak Drive stated the house exceeds the allowable height in N3a. Looking at the surrounding area, there is some diversity with 1-2 story houses but much less than Mr. Vlieger stated. Of the 15 houses within a 250 radius, there is only 1 2-story house so he believes the height of the house is out of character for this area.

Philip Vlieger stated he never said the house would be taller if it was a 2-story house, this house is 5-6 foot shorter than a standard 2-story house. If this house had a 5/12 pitch, it would be 4-5 feet taller than it is now and wouldn’t be blocking views from neighboring properties. They have also incorporated shadow lines which would help scale the property down.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Francis Boggus stated he would approve the wavier of sidewalk to stay consistent and believes the house adds to the diversity of architecture in the area.

Jann Freed stated she lives in this area and there are no sidewalks. She feels differently about this sidewalk do to the location. If you want to start installing sidewalks, you must start somewhere.

Greg Wattier stated he would support wavier of the sidewalk and supports the 11-foot floor height on the upper level

**COMMISSION ACTION:**

Francis Boggus made a motion for approval of the requested Type 2 Design Alternative to waive the sidewalk requirement.

**THE VOTE:** 9-3 (Abby Chungath, Johnny Alcivar and Jann Freed voted in opposition).

And Part B) **APPROVAL** of the requested Type 2 Design Alternative to allow an 11-foot floor height on the upper level.

**THE VOTE:** 11-1 (Abby Chungath voted in opposition).
Item 9

Request from HJT, Inc. (owner) represented by Jack Houghton (officer) for the following regarding the property at 2101 Dixon Street:

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

B) Rezone property from “I1” Industrial District to the “I2” District, to allow the property with existing Warehouse use to request a Conditional Use for the premise to be used additionally for transfer of hazardous and flammable materials defined as Fabrication and Production, Intensive. (ZON2020-00156)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to repurpose existing industrial flex warehouse space within the southern tenant bays of the building for the transfer and distribution of hazardous and flammable materials.

2. Size of Site: 2.499 acres.

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


5. Adjacent Land Use and Zoning:

   North – “I1”; Use is a multi-tenant warehouse/flex building.
   South – “I1”; Use is a book bindery.
   East – “I1”; Use is a warehouse.
   West – “I1”; Use is office and warehouse building.

6. General Neighborhood/Area Land Uses: The subject property is in the Guthrie Avenue Area industrial complex on the east of Dixon Street, which is a main north/south route through the industrial complex.

Applicable Recognized Neighborhood(s): The subject property is not in a recognized neighborhood. All neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. All agendas 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.
Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (23 days prior to the hearing due to Thanksgiving postal holiday) and December 7, 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.

7. Relevant Zoning History: The subject property was zoned to “I1” Industrial District from “M1” Light Industrial District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.


9. 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 “Industrial”. Plan DSM describes this designation as follows:

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

Applicable portions of PlanDSM Creating Our Tomorrow:

   Goal 7
   Maintain the existing industrial designated areas to provide appropriate locations for industrial use.

   LU36: Develop land use regulations for industrial uses that address potential impacts with adjoining non-industrial land uses, particularly residential areas.

   LU37: Restrict expansion of existing or development of new non-industrial uses within industrially designated areas.

   LU38: Capitalize on the City’s locational strengths geographically and as a hub in the regional transportation network including, but not limited to, development of a transload facility and expansion of the Des Moines International Airport.
LU39: Eliminate and/or reduce offensive
industrial odors.

Staff believes the proposed rezoning could be determined in conformance with these goals and objectives and be appropriate depending on the level of potential impact there is to the surrounding areas. The future land use designation would allow for the rezoning to the “I2” Industrial District.

The proposed use as generally described in the rezoning application would fall under the Fabrication and Production, Intensive classification, described in Chapter 134 Section 134-3.6.1.D as “Uses that regularly use hazardous chemicals or procedures or produce hazardous byproducts, including the following: manufacturing of acetylene, cement lime, gypsum or Plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, radioactive materials, and above ground storage of flammable and combustible liquids in excess of 1,000 gallons. This sub-category also includes petrochemical tank farms, gasification plants, foundries, chrome plating, smelting, electroplating, fiberglass manufacturing, animal slaughtering, oil refining, asphalt and concrete plants, flour mills, paper products manufacturing, and tanneries. Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic.”

Typically, the impacts of the Fabrication and Production, Intensive; Mining or Mineral Processing or Junk and Salvage Yard are managed through the Condition Use review by the Zoning Board of Adjustment, where specific conditions can be required with the approval to ensure migration of impacts on the surrounding area.

The Board would review the use using the following supplemental regulations:

A. No part of the use may be a residential use, except for artisan uses.
B. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting shall be emitted onto any adjoining property so as to create a nuisance.
C. The owner or occupant must provide the community development director with an acceptable written statement describing the use and the nature of any odors, gases, noise, vibration, and other environmental impacts that may be generated by such use; and certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining properly so as to create a nuisance.
D. The use shall be operated in strict conformance with the written statement provided to the community development director.

This is different than in other districts where the rezoning conditions may serve this purpose. In this case however, there is limited information provided with the application to describe the nature and level of the transfer of hazardous material or flammable materials. Not only does the City need to be concerned about the presence of such material on the property, but also the movement of them to and
from the property. The Zoning Enforcement Officer has asked for additional detail of the movement logistics, proposed specific materials and amounts that would be transferred, the containers and trucks that the material would be stored in, duration of the presence of these materials on the property at any given time, and measures taken to comply with Federal regulations for the transport of these materials.

At this time, the surrounding industrial complex is not characterized by any “I2” District Zoning or any uses that would be comparable to Fabrication and Production, Intensive classification. The closest similar use is over ¼ of a mile to the south. There is some concern by Staff that, depending on the anticipated impacts, the intensity allowed the proposed industrial use may create a negative character or other impacts which may deter other less intensive industrial uses in the area. Even though conditional safeguards could be put in place by the Zoning Board of Adjustment in their subsequent review, without knowing more specifics by the applicant and the potential tenant engaged in transferring these materials, Staff is reluctant to support rezoning of the property at this time.

2. Planning and Design Ordinance: Development of the change of use of the space in the building may trigger compliance with applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. For the proposed “I1” Neighborhood District, this would involve reviewing the building under Workshop/Warehouse or General Building provisions in that Chapter. This would be subject to a separate full review under the International Building Code. Any recommendation of the proposed rezoning by the Commission should not be construed as support for the submitted concept for the proposed dwelling.

III. STAFF RECOMMENDATION

Part A) Staff recommends that an “I2” Industrial District designation can be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends denial of the requested rezoning to the “I2” Industrial District until the applicant provides for additional detail of the movement logistics, proposed specific materials and amounts that would be transferred, the containers and trucks that the material would be stored in, duration of the presence of these materials on the property at any given time, and measures taken to comply with Federal regulations for the transport of these materials.

Should the applicant seek additional time to provide more detailed information for Staff to review in making a more informed recommendation, a continuance would be supported.

SUMMARY OF DISCUSSION

Erik Lundy advised the zoning enforcement office has requested a continuance of item #9 to the January 21, 2021 to allow more time for review.
COMMISSION ACTION:

Abby Chungath made a motion to continue item #9 to the January 21st, 2021 meeting.

THE VOTE: 12-0

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Committee and Director’s Reports: None

Meeting adjourned at 7:50pm