The January 21, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 889 4115 4910.


P&Z ABSENT: None.

STAFF PARTICIPANTS: Mike Ludwig, Bert Drost, Jason Van Essen, Katherine Drahos, Erik Lundy, Judy Parks-Kruse, Tyler Hall, Anuprit Minhas and Pam Cooksey.

Dory Briles made a motion to approve the December 17, 2020 Plan and Zoning Commission meeting minutes. Motion carried 12-0-2 (Will Page and Emily Webb abstained as they were not present for the December 17 meeting).

Jann Freed stated the application for item #15 has requested a continuance to the February 18, 2021 meeting.

Greg Wattier made a motion to continue item #15 to the February 18, 2021 meeting. Motion Carried 14-0

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2, #3, #4, #5, #6, #7, #8, #9, #10 or 11. Members of the public requested to speak on items #2, #4 and #11.

Dory Briles made a motion to approve Consent Agenda Items #1, #3, #5, #6, #7, #8, #9 and #10. Motion carried 14-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

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 an existing “Warehouse” use to request a Conditional Use for the premise to be used additionally for transfer of hazardous and flammable materials, which is defined as a “Fabrication and Production, Intensive” use. (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.

7. Applicable Recognized Neighborhood(s): The subject property is not in a recognized neighborhood. All neighborhood associations were notified of the December 17, 2020 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 December 17, 2020 hearing due to Thanksgiving postal holiday) and December 7, 2020 (10 days prior to the December 17, 2020 hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

8. 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.

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 “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 mitigation 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 property 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. 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. Following the continuation of the item at the December 17, 2020 hearing the applicant provided this information to the Zoning Enforcement Officer.

The proposed operation is described as a 10-day Transfer Facility. These facilities have oversight by the Iowa environmental protection agency and have routine inspections. Hazardous waste material would be transported by generators or manufacturers in approved DOT containers in accordance with EPA regulations to the facility. The materials would be collected and then transferred to an approved process facility. The material sheet provided by the applicant indicates the categories of materials would range from non-hazardous waste through Hazardous Classification 9. Out of the 90,000 pounds expected to be transferred weekly, the
predominant amount (78.5 % or about 70,000 lbs. weekly) is non-hazardous. The most abundant hazardous material expected would be Hazardous Classification 3 Flammable Liquids at about 11,000 lbs. weekly. The facility would not be used to transfer Hazardous Materials Classified as 1 Explosives, 6.2 Bio-Infectious, or 7 Radioactive.

Typically, small box trucks transport to the facility, the materials would be transferred directly into a semi-trailer which is used to transfer materials to an approved processing facility. Occasionally a semi-truck would be used to transport from a generator. Each trailer leaving the facility would be replaced at the dock by an empty trailer. No trailer would sit at the facility beyond the maximum allowed 10-day period. The facility would be staffed by an operations manager and field chemists, all of which would be trained in required OSHA and DOT courses before being permitted to work at the generator sites or the transfer site. All transport containers and vehicles would be marked in accordance with DOT and USEPA requirements. The applicant provided the required contingency plan for Emergency Action, Follow-Up and Training Program.

Staff believes the proposed use can be adequately regulated though requirements of the Conditional Use process.

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 approval of the requested rezoning to the “I2” Industrial District subject to the following Conditions:

1. Any use of the property shall be limited to those uses permitted in the “I1” Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment.

2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building.
SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) that an “I2” Industrial District designation can be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) APPROVAL of the requested rezoning to the “I2” Industrial District subject to the following Conditions:

1. Any use of the property shall be limited to those uses permitted in the “I1” Industrial District and Fabrication and Production, Intensive including the temporary transfer of hazardous materials as may be approved as part of a Conditional Use granted by the Zoning Board of Adjustment.
2. Any use of the building for Fabrication and Production, Intensive including the temporary transfer of hazardous materials shall be limited to the south 170 feet of the existing building.

THE VOTE: 14-0

Item 3

Request from Porter Hardware, Inc. (owner), represented by David Porter (officer), for the following regarding the property at 4207 Hubbell Avenue:

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

B) Rezone property from “MX3” Mixed Use District to “CX” Mixed Use District, to allow the property with an existing Retail Sales, General and Vehicle Sales and Rental (Equipment) use to expand to a “Retail Sales, Large Format with the additional Warehouse and Accessory Outdoor Storage use, which would allow for outdoor storage of materials and equipment on the property.

(ZON2020-00154)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to expand the existing retail sales operation with outdoor rental and sales and equipment. In addition to the existing 22,180-square foot retail center and 3,569-square foot shop/warehouse building,
the owner proposes to build an additional 5,000-square foot warehouse building. This would total 30,749-square feet of floor area categorizing it as a Retail Sales, General use. The owner would further seek determination by the Development Services Director or the Zoning Board of Adjustment as part of a Type 2 Exception of the minimum 40,000-square foot area, that the use would be classified as a Retail Sales, Large-Format allowing for accessory outdoor storage in a “CX” Mixed Use District.

2. **Size of Site**: 2.86 acres.

3. **Existing Zoning (site)**: “MX3” Mixed Use District.

4. **Existing Land Use (site)**: Retail Sales, General and Vehicle Sales and Rental (equipment).

5. **Adjacent Land Use and Zoning**:
   - **North**: “MX3” & “RX1”; Uses are Limited Retail Sales and Multiple Household Living.
   - **South**: “P2”; Use is a Place of Worship Assembly.
   - **East**: “MX3”; Uses are undeveloped land and Professional Offices.
   - **West**: “MX3”; Uses are Municipal Fire Station and undeveloped land.

6. **General Neighborhood/Area Land Uses**: The subject property located on the U.S. Highway 6/Hubbell Avenue corridor. It contains a mix of Commercial and Industrial uses surrounded by mixed densities of Residential uses.

7. **Applicable Recognized Neighborhood(s)**: The subject property is in the Sheridan Gardens Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2020 (22 days prior to the hearing due to New Year Holiday) and January 11, 2021 (10 days prior to the hearing) to the Sheridan Gardens Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Sheridan Gardens Neighborhood Association notices were mailed to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

8. **Relevant Zoning History**: The subject property was zoned to “MX3” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**

Community Mixed Use.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

   *Community Mixed Use*

Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

Based on this designation, the proposed “CX” Mixed Use District zoning would be found in conformance with the Comprehensive Plan. The Zoning Ordinance states that “CX” is intended for nodes and corridors with larger-scale single-use commercial accommodating higher levels of vehicular traffic than “MX” Districts and more intensive commercial uses, especially with outdoor sales and storage. Staff believes the proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor.

2. **Planning and Design Ordinance:** Any redevelopment must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The applicant has provided a concept of the development showing a new 5,000-square foot storage building. However, Site Plan development would be subject to formal review under the Code.

3. **Outside Storage:** Per Chapter 134 134-3.9.6, Outdoor storage is permitted in a “CX” District when associated with a large format retail use subject to additional requirements outlined in that section. It would also be subject to provisions in Chapter 135 Section 135-The proposed expansion of the floor area for the site does not bring the total 40,000 square feet of area described for Retail Sales, Large Format in Section 134-8.2.2 as part of any Site Plan development.

With adoption of the proposed zoning amendment, the owner would need to seek a determination of the Development Services Director on whether the proposed
development would be found within the use classification for Retail Sales, Large-Format. If that determination would not be made, then the owner would need to seek remedy from the Zoning Board of Adjustment.

III. STAFF RECOMMENDATION

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

Part B) Staff recommends approval of rezoning the subject property from “MX3” Mixed Use District to “CX” Mixed-Use District subject to any permitted accessory outside storage occurring outside of the front yard or street side yards of the site.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) the proposed rezoning to “CX” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) APPROVAL of rezoning the subject property from “MX3” Mixed Use District to “CX” Mixed-Use District subject to any permitted accessory outside storage occurring outside of the front yard or street side yards of the site.

THE VOTE: 14-0

***************
***************

Item 5

Request from City of Des Moines (owner) represented by Pamela Cooksey (Assistant City Manager), for the following regarding the property in the vicinity of 1501 Harriet Street:

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Park/Open Space. (21-2020-4.31)

C) Rezone property from “I1” Industrial District to “P2” Public, Civic, & Institutional District, to allow the property to be developed with public recreation area use. (ZON2020-00163)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The project will include construction of public whitewater facilities along the north side of the Des Moines River and within the Des Moines River as a component of the Central Iowa Water Trails project.

   The proposed project incorporates portions of adjoining property that are zoned “F” Flood District. Areas zoned “F” Flood District would allow the proposed project and do not require rezoning; however, a Conditional Use Approval is required and is currently on the agenda for the Wednesday, January 27, 2021 Board of Adjustment meeting.

2. Size of Site: 101,494.8 square feet (2.33 acres).

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

4. Existing Land Use (site): The irregularly-shaped property consists of vacant and undeveloped land.

5. Adjacent Land Use and Zoning:

   North – “I1”; Use is undeveloped land.
   South – “I1” & “F”; Use is the Des Moines River.
   East – “I1”; Use is an undeveloped land.
   West – “I1”; Use is vacant land to be developed for Des Moines Animal Control Facility.

6. General Neighborhood/Area Land Uses: The subject property is located on the southeast corner of the Harriet Street and Southeast 15th Street intersection. It is located along the north side of the Des Moines River in an area that is largely undeveloped.

7. Applicable Recognized Neighborhood(s): The subject property is not located within any recognized Neighborhood but is within 250 feet of the Historic East Village and McKinley/Columbus Park Neighborhoods. The neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2020 (20 days prior to the hearing) and January 11, 2021 (10 days prior to the hearing) to the Historic East Village Neighborhood Association, the McKinley Columbus Park Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.
All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Historic East Village Neighborhood Association mailings were sent to Taylor Frame, PO Box 93904, Des Moines, IA 50393. The McKinley/Columbus Park Neighborhood Association mailings were sent to Jim Post, 224 Southeast Livingston Avenue, Des Moines, IA 50315.

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 December 14, 2020. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. Relevant Zoning History: None.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. 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.

   Any construction shall comply with all applicable State and Federal regulations, including but not limited to those of FEMA, Army Corps of Engineers, and/or DNR.

2. PlanDSM: Creating Our Tomorrow: The proposed “P2” Public, Civic, & Institutional District is not compatible with the existing Industrial future land use designation. PlanDSM 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.”

   The proposed “P2” Public, Civic, & Institutional District is compatible with the proposed Park/Open Space future land use designation. PlanDSM describes this designation as: “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.”
III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “P2” Public, Civic, & Institutional District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Park/Open Space.

Part C) Staff recommends approval of rezoning the subject property from “I1” Industrial District to “P2” Public, Civic, & Institutional District, to allow the property to be developed with public recreation area use.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) the proposed rezoning to “P2” Public, Civic, & Institutional District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) APPROVAL of amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Park/Open Space and Part C) APPROVAL of rezoning the subject property from “I1” Industrial District to “P2” Public, Civic, & Institutional District, to allow the property to be developed with public recreation area use.

THE VOTE: 14-0

****************
****************

Item 6

Request from Catholic Health Initiatives – Iowa Corporation d/b/a Mercy Medical Center Des Moines (owner) represented by Diane Cummings (officer) for review and approval of a proposed 7th Amendment to the Mercy Medical Center PUD Conceptual Plan on property located in the vicinity of 1111 6th Avenue, to allow construction of a canopy on the building known as 411 Laurel Street and revision of the campus sign plan. (ZON2020-00165)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to Mercy Medical Center’s “PUD” Planned Unit Development District would allow construction of a new building
Plan and Zoning Commission
Des Moines, Iowa

Minutes of Meeting
January 21, 2021

Page 13

2. **Size of Site:** Approximately 38 acres.

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

4. **Existing Land Use (site):** The site contains the Mercy Medical Center campus.

5. **Adjacent Land Use and Zoning:**
   - **North** – “RX2” & “MX2”, Uses include Comito’s Fifield Pharmacy, Mercy Education Center, Riley Physician Office, University Nursing & Rehabilitation Center, and Burger King.
   - **South** – “DX2”, Uses include Des Moines Medical Center offices, Iowa Dental Supply, and Medical Office Plaza.
   - **East** – “P2”, Use is Des Moines Metro U.S. Post Office.
   - **West** – “RX2” & “MX2”, Uses include QuikTrip, Mercy Daycare, and offices for Planned Parenthood of Greater Iowa.

6. **General Neighborhood/Area Land Uses:** The subject property is located north of Interstate 235 between residential neighborhoods to the north and west and commercial uses to the south and east.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Cheatom Park Neighborhood and within 250 feet of the River Bend Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on January 7, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on December 30, 2020 (20 days prior to the hearing) and on January 11, 2021 (10 days prior to the hearing) to the Cheatom Park Neighborhood, River Bend Neighborhood, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on January 15, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Cheatom Park Neighborhood Association mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314 and the River Bend Neighborhood Association mailings were sent to Jon
Royal, 1830 8th Street, Des Moines, IA 50314.

Due to the COVID-19 pandemic, the applicant was unable to hold a neighborhood meeting. On January 5, 2021, the applicant mailed a letter to the neighboring property owners and neighborhood associations to explain their proposal and to provide contact information in case they had any questions or comments. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** The Mercy Medical Center “PUD” Conceptual Plan was originally approved on April 5, 2004 by Ordinance 14,333.

   The 1st amendment was approved administratively in June 2004 to allow construction of a building addition to the south side of the hospital for a “CyberKnife” facility.

   The 2nd amendment was approved administratively in June of 2006 to allow a new signage plan for the hospital complex.

   The 3rd amendment was approved by City Council in April 2007 (Roll Call 07-688) to allow construction of a building addition to the northwest corner of the hospital for an expansion of the emergency room and a helicopter pad.

   The 4th amendment was approved on September 26, 2016 (Roll Call 16-1688) to expand the PUD area by 2.3 acres and to allow for the demolition of the existing Mercy Apartments for development of a new parking structure and additional surface parking; demolition of the Mercy Office Plaza building for development of a parking structure; and demolition of the existing east parking structure for development of an 11-story hospital tower with 2 levels of subsurface parking.

   The 5th amendment was approved administratively in July 2019 to allow installation of a sign for the children’s hospital.

   The 6th amendment was approved on January 13, 2020 (Roll Call 20-0113) to allow revision to the campus signage plan.

9. **PlanDSM Land Use Plan Designation:** Public/Semi Public & Medium Density Residential.

10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.
The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Building Modifications: The requested “PUD” Conceptual Plan amendment proposes construction of a new entrance canopy along the west façade of the building known as 411 Laurel Street. The canopy would generally measure 97.83 feet by 21.5 feet, and would replace an existing canopy. The proposed amendment would also allow the existing drop-off lane to be lengthened, which would necessitate construction of a short retaining wall.

2. Signage: The requested “PUD” Conceptual Plan amendment proposes a new sign on the south façade of the building, which would measure 1.67 feet by 57.6 feet (95.45 square feet), and a new sign on the west façade of the proposed canopy, which would generally measure 4.67 feet by 22.33 feet (104.28 square feet). Staff believes that proposed size and placement of the signs are appropriate given the scale of the existing hospital complex.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed 7th Amendment to the Mercy “PUD” Conceptual Plan.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of the proposed 7th Amendment to the Mercy “PUD” Conceptual Plan.

THE VOTE: 14-0
Item 7

Request from JOPPA, LLC (owner) represented by Curtis Carlson (officer), for the following regarding the property in the vicinity of 1010 13th 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 Low Density Residential to Low-Medium Density Residential. (21-2021-4.01)

C) Rezone property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow the property to be developed with a Two-Household Living use (duplex). (ZON2021-00005)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow construction of a two-household dwelling.

2. Size of Site: 12,862 square feet (0.295 acres).

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

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

5. Adjacent Land Use and Zoning:

   North – “N5”; Use is a two-household dwelling.
   South – “N5”; Use is Interstate 235.
   East – “P2”; Use is a church (St. Paul’ African Methodist Episcopal Church).
   West – “N5”; Use is a community garden.

6. General Neighborhood/Area Land Uses: The subject property is located along the west side of 13th Street just to the north of the freeway in an area that contains a mix of residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Cheatom Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on December 30, 2020 (20 days prior to the public hearing) and January 11, 2021 (10 days prior to the public hearing) to the
neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Cheatom Park Neighborhood Association mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314.

Due to the COVID-19 pandemic, the applicant was unable to hold a neighborhood meeting. However, on December 7, 2020, the applicant mailed a letter to the neighboring property owners and neighborhood association to explain their proposal and to provide contact information in case they had any questions or comments. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** On June 26, 2019, by Docket ZON2019-00088, the Board of Adjustment granted an Exception of 10 feet less than the minimum required 30-foot front yard setback to allow construction of a two-family (duplex) residential structure that would be within 20 feet of the east (front) property line along 13th Street.

At the time of the Board of Adjustment’s hearing, the property was zoned “R-3” Multiple-Family Residential District. However, the applicant did not obtain a building permit for a two-family residential structure prior to December 16, 2019, at which time the property was rezoned to “N5” Neighborhood District.

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated as “Low-Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

   **Low-Density Residential:** Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.
The applicant is proposing to rezone the property from “N5” Neighborhood District to “N5-2” Neighborhood District. The “N5-2” District allows for one- and two-household dwellings that are in accordance with either “House B” or “House C” building types. The proposed two (2) dwelling units on a 0.295-acre lot represent a new density of 6.78 units per acre. Therefore, the rezoning requires that the future land use designation be amended to Low-Medium Density Residential. Plan DSM describes this designation as follows:

Low-Medium Density Residential: Areas developed with primarily single family, duplex, and small multi-family residential units with up to 12 dwelling units per net acre.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). The proposed “N5-2” District allows for one- and two-household dwellings that are in accordance with the “House D” building type. The provisions for this building type is contained in City Code Section 135-2.16. Any deviation from these requirements would be subject to the consideration of any necessary future Type 1 or Type 2 Design Alternative(s).

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “N5-2” 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 an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Low-Medium Density Residential.

Part C) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Dory Briles made a motion for approval of Part A) the proposed rezoning to “N5-2” 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 an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Low-Medium Density Residential and Part C) **APPROVAL** of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.
Item 8

Request from Richard Goebell (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 1539 East Bell Avenue, to allow an 1,140-square foot addition to the one-story House Type B which would be within 7 feet of the east property line and within 3 feet of the west property line by incorporation of the existing detached garage. This would be 2.7 feet less than the minimum 5.7 feet of side yard on the west and 5 feet less that the minimum 15 feet of total side yard required by Chapter 135 Section 135-10.2.2.C and Section 135-2.14.3.A.5.

(BLD2020-02967)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 1,140-square foot one-story addition on the south side of the existing, one-story house. The addition would connect to the existing detached garage, and would be constructed with like materials and roof profile to match existing house. The addition requires Type 2 Design Alternative relief to allow its location within 3 feet of the west and 7 feet of the east property lines.

2. Size of Site: 57-foot by 199-foot parcel (11,343 square feet).

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

4. Existing Land Use (site): One-story one-household dwelling.

5. Adjacent Land Use and Zoning:

   North – “N3a”; Uses are one-household dwellings.
   South – “N3a”; Uses are one-household dwellings.
   East – “N3a”; Uses are one-household dwellings.
   West – “N3a”; Uses are one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is in a primarily residential area east of SE 14th Street that consists of one-household dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Pioneer Park Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on January 7, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 11, 2021 (10 days prior to the original 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. A Final Agenda was mailed to all recognized neighborhoods on January 15, 2021.

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 Pioneer Park Neighborhood Association mailings were sent to Scott Jimmerson, 1907 E Lacona Ave, Des Moines, IA 50320.

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

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

10. **Applicable Regulations:** Section 135-2.14.3.A.5 states that for House Type B the minimum side yard on one side shall be 7 feet with a total side yard of 15 feet on both sides.

    Section 135-10.2.2.C states that the sum of the side setback widths of any pre-existing lot in neighborhood district shall not be less than 30% of the width of the lot, but in no case less than 10% of the width of the lot for any interior side setback.

    Section 135-10.2.2.F states that if the application of any of the requirements of subsections of this section to a particular lot would impose a greater setback than required under the regulations of the district in which the lot is located, the lesser setback requirements of the building type regulations shall control.

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

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

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

➢ Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;
- The city's plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;
- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

The applicant’s request to reduce the required setbacks by 47% and 33.3% exceeds the amount of relief that could be granted as a Type 1 Design Alternative pursuant to Section 135-9.2.3.A.3.a and 135-9.2.3.B.1.

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  ➢ An evaluation of the character of the surrounding neighborhood, such as:
    
    o Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    
    o Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);

- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  
  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Staff Analysis: The proposed addition would be located on the south side (rear) of the existing dwelling and connect with the existing detached garage which is set back 3 feet from the west property line. While the proposal allows the applicant to utilize the existing garage, it results in the west side yard setback being 2.7 feet less than the 5.7 feet required per Section 135-10.2.2.C. The total setback of 10 feet
would be 5 feet less than the minimum 15-foot requirement per Section 135-2.14.3.A.5.

Staff has reviewed the proposed addition relative to the character of the existing dwelling and the surrounding neighborhood area. The reduction to the west, side yard setback and total setback would not create any detrimental impact on neighboring properties. The addition would be in character with the principal dwelling, and constructed with like material and appropriate roof profile, while meeting the required building and fire codes. The overall building design meets the intent of Chapter 135.

III. STAFF RECOMMENDATION

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

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

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

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

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of the request, subject to the following conditions:

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

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

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

THE VOTE: 14-0

***************
***************
Item 9

Request from JP Morgan Chase Bank N.A. (purchaser) represented by Jacob Eganhouse (officer) for review and approval of a Public Hearing Site Plan “Chase Bank” 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 6150 SE 14th Street, to allow 2,464 square feet of the existing Storefront building to be reconfigured for a Financial Service use where the south façade of the building would not provide any transparency when the east 30 feet of the façade is required to have 65% based on the transparency being required to wrap around to the street side façade on a corner lot per Section 135-2.5.3.E.4. The subject property titleholder is 6150 SE 14, LLC. (10-2021-7.14)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property contains a one story commercial building with two tenant bays. The applicant is proposing to renovate the northern tenant bay and make site improvements. 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: 48,027 square feet (1.1 acres).

3. Existing Zoning (site): “MX3-V” Neighborhood Mix District with Vehicle Sales and Rental Display Limitation

4. Existing Land Use (site): Commercial.

5. Adjacent Land Use and Zoning:

   North – “MX3-V”; Use is an auto service shop.
   South – “MX3-V”; Use is a pharmacy.
   East – “CX-V”; Uses are commercial.
   West – “MX3”; Use is a multi-tenant office building.

6. General Neighborhood/Area Land Uses: The subject property is on the northwest corner of the SE 14th Street and Cummins Road. The surrounding area contains a mix of commercial uses and multiple household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the South Park Neighborhood and within 250 feet of the Easter Lake Area Neighborhood. The neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on January 7, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 11, 2021 (10 days prior to the original 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. A Final Agenda was mailed to all recognized neighborhoods on January 15, 2021.

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 South Park Neighborhood Association mailings were sent to Jan Goode, 4501 SE 6th Street, Des Moines, IA 50315. The Easter Lake Area Neighborhood Association mailings were sent to Jim Bollard, SE 26th Street, Des Moines, IA 50320.

8. Relevant Zoning History: None.

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

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

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

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

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

  ➢ Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

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

    ◦ 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. Building Design: Section 135-2.5.3.E.4 of the Planning and Design Ordinance extends the 65% transparency requirements of the front façade around to the first 30 feet of any street facing side façade. The subject site is located on the northwest corner of the Southeast 14th Street and Cummins Road intersection. The existing building has frontage on both streets. The applicant is renovating and will occupy the north tenant bay. The southern tenant space has frontage on the side street (Cummins Road). This façade has no window or door openings.

The southern bay is occupied by a separate tenant and installing windows on the Cummins Road façade would negatively impact their operations. Therefore, the applicant is requesting a Type 2 Design Alternative to waive this requirement. The requested design alternative would not have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare. Staff supports this Type 2 Design Alternative request.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to waive the transparency requirement on the south façade facing Cummins Road.

Staff recommends approval of the proposed Public Hearing Site Plan subject to revision of the Site Plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.
SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of the requested Type 2 Design Alternative to waive the transparency requirement on the south façade facing Cummins Road and APPROVAL of the proposed Public Hearing Site Plan subject to revision of the Site Plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.

THE VOTE: 14-0

Item 10

Request from Covenant Construction Services, LLC dba CCS Homes (owner) represented by Alan Sprinkle (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 3915 48th Street, to allow construction of a two-story House Type B with an attached garage with doors that would be 20 feet wide and comprising 41.6% of the front façade width exceeding the maximum 30% allowed by Chapter 135 Section 135-2.14.3.A.10. (BLD2020-03121)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new one-household, two-story dwelling on the subject property with a three-car attached garage. The subject property is located within N3a district and the proposed house plan was reviewed under the House B building type regulations (Section 135-2.14). The applicant is seeking relief to allow garage façade on front façade to be 64.58% of the front façade width exceeding the maximum 30% allowed by Chapter 135 Section 135-2.14.3.A.10.

2. Size of Site: 60 feet by 203 feet (12,196 square feet).

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

4. Existing Land Use (site): Vacant.
5. **Adjacent Land Use and Zoning:**

   - **North** – “N3a”; Uses are one-household dwellings.
   - **South** – “N3a”; Uses are one-household dwellings.
   - **East** – “N3a”; Uses are one-household dwellings.
   - **West** – “N3a”; Uses are one-household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is in a primarily residential area between Hoover High School and Douglas Avenue that consists of one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Beaverdale Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on January 7, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 11, 2021 (10 days prior to the original 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. A Final Agenda was mailed to all recognized neighborhoods on January 15, 2021.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Beaverdale Neighborhood Association mailings were sent to Marcus Coenen, P.O. Box 30175, Des Moines, IA 50310.

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

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

10. **Applicable Regulations:** Section 135-2.14.3.A.10 states that for House Type B an attached garage door located on the front façade can be a maximum of 30% of the front façade width.

    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. Type 1 Design Alternatives Approved Administratively:

   A. An increase of 1'-1/8" in required maximum story height of 9 feet required by Section 135-2.14.3.B.14 pursuant to Section 135-9.2.3.A.5.a

   B. A one-foot reduction of the required 3 feet recess for third car stall required per Section 135-4.1.3.B
C. A decrease of 16.6% (5.34 sf) of the required transparency on first floor as required by Section 135-2.14.3.D.18 pursuant to Section 135-9.2.3.A.6 subject to provision of a top row of windows over garage doors.

2. **Staff Rationale:** The proposed one-household dwelling would be located on a lot that is situated in the ‘elbow’ along 48th Street as it runs north to west. The width of the lot extends behind the adjoining residential lot, limiting street frontage. As such, the full width of the proposed house would not be easily visible from the public street. The proposed design aims to utilize the street frontage to access a 3-car garage, where the 3rd stall would be set back 2 feet from the front façade. The applicant has attempted to minimize impervious surface by angling the driveway to 3rd car stall with minimum paving required for access.

Staff has reviewed the proposed design relative to the character of the surrounding neighborhood area. The increase to the garage door width would not create a detrimental impact on neighboring properties. The location of the lot, and the angling of the proposed building footprint on the lot limits the visual impact of the front façade from the public street. Staff recommends addition of a top row of slim windows in the garage doors to further reduce the impact of the garage doors. The new building is proposed to be constructed with quality material and will complement the design form and profile in the neighborhood. The overall building design meets the intent of Chapter 135.

### III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 design alternative subject to the following conditions:

1. The attached garage doors shall be provided with a top row of windows.

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

3. Construction of the addition shall be in conformance with the submitted site plan and elevations including building and roofing materials.

4. The addition shall comply with all applicable Building and Fire Codes, with issuance of all necessary permits by the Permit and Development Center.

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:

Dory Briles made a motion for approval of the requested Type 2 design alternative subject to the following conditions:
1. The attached garage doors shall be provided with a top row of windows.

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

3. Construction of the addition shall be in conformance with the submitted site plan and elevations including building and roofing materials.

4. The addition shall comply with all applicable Building and Fire Codes, with issuance of all necessary permits by the Permit and Development Center.

THE VOTE: 14-0

********************************************
********************************************

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Polk County Conservation Board (applicant) represented by Richard Leopold (officer), for the vacation of the following segments of public street in the vicinity of 3546 East Sheridan Avenue, for purposes of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway. Adjoining land is owned by Polk County. (11-2020-1.16)

A) East Sheridan Avenue from East 35th Street to East 36th Street.
B) East 35th Street from Hull Avenue to Arthur Avenue.
C) East 39th Street from East Jefferson Avenue to Four Mile Drive.
D) Osceola Avenue from East 40th Street to East 41st Street.
E) East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail.
F) East 41st Street from Osceola Avenue to Indianapolis Avenue.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacations would accommodate expanded facilities for the Lower Fourmile Creek Greenway and to reduce flooding impacts on adjoining residential neighborhoods.

2. Size of Site: Combined approximately 4.15 acres (180,793.7 square feet).

4. **Existing Land Use (site):** The impacted area consists of public street rights-of-way.

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

   **North** – “N3a” & “F”; Uses are predominantly one-household dwellings and flood plain.

   **South** – “N3a”, Uses are one-household dwellings.

   **East** – “N3a”; Uses are one-household dwellings.

   **West** – “N3a”, “N3b” & “P1”; Uses are one-household dwellings and Fourmile Creek Greenbelt.

6. **General Neighborhood/Area Land Uses:** The subject area is generally bordered by Hubbell Avenue to the north, East 42nd Street to the east, Indianapolis Avenue to the south, and East 33rd Street to the west and in conjunction with the flood plain around Four Mile Creek. The area consists of a mix of open space/parks and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject properties are in the Grays Woods Neighborhood and the Sheridan Gardens Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 11, 2021 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Grays Woods Neighborhood Association mailings were sent to Linda Adamson, 1330 East 41st Street, Des Moines, IA 50317. The Sheridan Gardens Neighborhood Association mailings were sent to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

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

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Flood with 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 vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.
II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: Identified utilities located in or near the impacted area include water valves, water hydrants, distribution water mains, sanitary sewer conduit, sanitary sewer manholes, and non-city-owned street lights. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Traffic/Access: The requested vacations would not negatively impact access to private properties or traffic patterns.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

SUMMARY OF DISCUSSION

Katherine Drahos presented the staff report and recommendation.

Adam Fendrick of Polk County Conservation stated this is part of their Fourmile Creek Greenway and are asking for vacation of the segments to better manage their natural restoration efforts.

CHAIRPERSON OPENED THE PUBLIC HEARING

Skip Moore stated he is under the impression there has been no communication with either neighborhood about these vacations. He would like this item continued until a meeting can be held with each neighborhood association.

Adam Fendrick stated the Deputy Director of Polk County Conservation was meeting with the neighborhoods before Covid19. He would defer to the Commission’s advice to either continue this item or approve the vacations.

Erik Lundy stated there is no requirement to hold neighborhood meetings for right-of-way-vacation requests. If the commission believes this needs to be considered through neighborhood outreach, they can make the recommendation to continue.

Katherine Drahos stated City staff does send out notification to the neighborhoods.

Mike Ludwig stated the information provided on the notices to Sheridan Garden and Grays Woods was contained in section 7 of the staff report. Notification with a preliminary agenda was sent out January 7th and the final agenda on January 15th. Additionally, separate notification for this item was mailed out on January 11th to the applicable neighborhood associations and the primary title holder on file with Polk County for each property adjoining the requested right-of-way.
CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Rocky Sposato made a motion for approval of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

THE VOTE: 13-1 (Greg Jones voted in opposition)

**************

**************

Item 4

Request from Jerry’s Homes, Inc. (owner) represented by Jay Cowan (officer), for review and approval of a 2nd Amendment to the Pearl Lake PUD Conceptual Plan, on property located at 3009 East Payton Avenue and in the vicinity of the 3001 block of East Payton Avenue, to allow revision to the street layout, change the property on the East Army Post Road frontage to large-lot One House Hold lots from previously approved Townhomes, and reduce the minimum lot sizes for specified lots to have a minimum 70-foot width and minimum 9,600-square foot area. Additional subject property is owned by Janet Bainter and City of Des Moines. (ZON2020-00160)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: Allow development of the “Pearl Lake” Conceptual Plan which consists of 39 One Household Living lots. This would be a reduction from 50 lots in the approved Conceptual Plan. The proposed amendment would also eliminate 15 Rowhouse type dwellings in Area “C” from the approved Plan affected by floodplain revisions and replaces them with three (3) large One Household Living lots that would exceed 20,000 square feet each.

   The proposed amendment would also revise the street layout to remove a cul-de-sac from the approved Plan to avoid land which has become designated as floodplain by the Federal Insurance Rate Maps. There would be six (6) lots proposed that would have a minimum 70-foot lot width rather than the minimum standard of 80 feet wide. There would be three (3) lots that would be less than the minimum 10,000 square feet in area.

2. Size of Site: 37.2 acres

3. Existing Zoning (site): Pearl Lake Legacy “PUD” Planned Unit Development.
4. **Existing Land Use (site):** Undeveloped agricultural land, a One Household Living dwelling, and a regional storm water management basin.

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

   **North** – “N2b”, Uses are One Household Living dwellings.

   **South** – Three Lakes Estates Phase II Legacy “PUD”, Uses approved for development by the Three Lakes Estates Phase II Conceptual Plan include One and Two Household Living dwelling and Row townhouse development. Property is currently partially developed with additional undeveloped land and regional storm water management basin.

   **East** – “N2b”, Uses are agricultural and timber land.

   **West** – “NX1” and “F”, Uses are agricultural and timber land.

6. **General Neighborhood/Area Land Uses:** The surrounding property is generally agricultural or planned low to medium-density residential use.

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 January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2020 (22 days prior to the hearing due to New Year Holiday) and January 11, 2021 (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 property was rezoned to “PUD” on September 10, 2001 by the City Council along with approval of the Pearl Lake Conceptual Plan.

   A 1st Amendment to the “PUD” Conceptual Plan was approved on January 10, 2011 by the City Council, which allowed revision to the street layout and reduction in One Household lot sizes without an increase in number of residential units.

9. **Plan DSM Creating Our Tomorrow:** Low Density Residential, Low-Medium Density Residential, and Park/Open Space with Development Control Zone overlay.

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. Natural Site Features: The site is currently divided by a drainage basin that runs from the southwest to the northern portion of the site towards Easter Lake. Two tributaries drain into the basin from the southwest and south. There is a small, delineated wetland at the south edge of the property that is required to be protected during grading operations. Otherwise, removal of the wetland would require mitigation under federal regulations.

   There are mature trees in the vicinity of the existing One Household Living dwelling and around the fence line perimeters of the overall development. The developer will be required to comply with the tree protection and mitigation requirements of the City Code.

2. Floodplain: Areas around the basin and tributaries are currently within the flood hazard area based on Federal Insurance Rate Maps (FIRM). These maps were recently update in 2019. Several of the approved lots in the existing Conceptual Plan are within the existing FIRM boundaries for flood hazard. The impetus for revising the lot and street layout with the proposed amendment was to avoid the updated flood hazard areas.

3. Drainage/Grading: The drainage for the site is proposed to be directed to the basin operated and maintained by the Storm Water utility for the City. The basin will provide storm water management for the subject development as well as adjacent developments within the same drainage shed south of East Payton Avenue.

4. Utilities: Sanitary sewer service is provided to the site by a main that runs parallel to the drainage way. The Conceptual Plan proposes lateral sewers to serve the proposed development. These laterals are also extended to serve future adjoining development.

   The submitted Conceptual Plan amendment does not indicate how water mains would be extended to serve the lots in Area “C”. Des Moines Water Works has commented that the water main to the west in the north part of the East Army Post Road Right-Of-Way would need to be extended to serve this area. Approval of any Conceptual Plan amendment shall require such revision to comply with this comment.
5. **Landscaping & Buffering:** The applicant is proposing street trees along all street frontages. The existing and proposed Conceptual Plan both prohibit opaque fencing within 25’ of the right-of-way for lots that back up to Army Post Road.

6. **Traffic/Street System:** The approved and proposed Conceptual Plan has proposed to dedicate all existing roadway easements for East Payton and Army Post Road. Two main circulation streets are proposed from the North off East Payton. Each extends to connect with future development to the east and west respectively.

7. **Urban Design:** The typical elevations for One Household Living dwellings of the approved Conceptual Plan were originally approved to be compatible with the Easter Lake New Town Plan concept to allow for contemporary development at the time. These were updated to include specific design standards with the 1st Amendment in 2011.

The 2nd Amendment design standards are proposed to be the same as the approved Conceptual Plan which mirrored approved PUD developments at the time of the approval in 2011. This would include the following:

(a) Minimum building floor areas for single-family residential shall be as follows
   1. Single-story (ranch) 1,200 square feet, excluding basements.
   2. Two-story 1,400 square feet, excluding basements.

(b) The front elevation of each single-family home constructed excluding windows and doors must consist of 1/3 to 1/2 stone or brick masonry.

(c) The front elevation of each single-family home constructed must contain one of the following:
   1. Shutters on each side of each window; or
   2. Window trim not less than 4” in width.

(d) The exterior of each single-family home must be of masonry (brick or stone) and/or vinyl, cedar, cement board, or hardi-board siding. If vinyl siding is selected, it must be greater than 40 mills thick.

(e) The roof on any home constructed shall be of architectural type shingles or cedar shakes.

Staff does not recommend any revision to these design standards as part of the propose amendment.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the requested amendment to the Pearl Lake Conceptual Plan subject to the following revisions:
1. Provision of a proposed water main extension of the existing Des Moines Water Work main to the west in East Army Post Road to serve the propose lots in Area “C”.

2. Provision of a note that any dead-end street segments would provide for necessary temporary fire apparatus turnarounds as part of any Preliminary and Final Plat

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Melissa Hills 2400 86th St. Urbandale, IA of Civil Engineering Consultants representing Jerry’s Homes stated they agree with staff recommendation. They have added water connection on Army Post Road and sanitary sewer connection to the trunk of the South Parcel. They have also added temporary turnarounds to the plan as well. All lot sizes are 80-foot except 4 of them that are 76-feet wide. Regarding open space, the center space between developable parcels is a 12-acre pond and greenbelt with a recreational trail running through it. With the out lots not being developed because of flood plain, over half of the development is open space.

CHAIRPERSON OPENED THE PUBLIC HEARING

Roger Hall 3009 East Payton Avenue stated he sees that the plan requires him to be hooked up to city sewer.

Mike Ludwig asked for Mr. Hall to clarify what his concern is regarding the note.

Roger Hall stated the note states they are required to change to city sewer, today they are on septic and laterals.

Erik Lundy asked if that is something they don’t want to happen?

Roger Hall asked if that would be additional cost to them.

Erik Lundy stated that would have been negotiated when the parcel was sold by Jerry’s Homes to Mr. Hall.

Melissa Hills stated she isn’t privy to what negotiations took place between Jerry’s Homes and the resident.

Jay Cowen 3900 Westown Parkway, Ste.100, WDM stated these negotiations were done well before his time with Jerry’s Homes and he would need to do some research. The services will be stubbed and made available but not be connected.

Mike Ludwig stated City staff expectation when this PUD was approved that the existing house and new houses would connect to city and urban services. This appears to be a private issue between the owner of that lot and the developer. All properties are within the existing PUD, with no proposed changes to the notes. Under normal
circumstances, when a single-family house is within 300-feet of a sewer, it would be connected to sanitary sewer if existing septic fails.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Greg Jones made a motion for approval of the requested amendment to the Pearl Lake Conceptual Plan subject to the following revisions:

1. Provision of a proposed water main extension of the existing Des Moines Water Work main to the west in East Army Post Road to serve the propose lots in Area “C”.

2. Provision of a note that any dead-end street segments would provide for necessary temporary fire apparatus turnarounds as part of any Preliminary and Final Plat

**THE VOTE: 14-0**

-------------------
-------------------

**Item 11**

Request from Axiom Gray’s Lake, LLC dba Gray’s Lake Apartments (owner) represented by Eric Anderson (officer) 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 2800 Fleur Drive, to allow placement of new trash enclosures within the front yard area along Southwest 23rd Street where required to be outside of the front yard per Section 135-2.1.7.B.2. (10-2021-7.41)

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The submitted alternative design documentation for site plan and trash enclosure elevations would allow the placement of two trash enclosure areas in the existing parking areas west of the apartment complex within the front yard area towards Southwest 23rd Street.

2. **Size of Site:** 17.63 acres.

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

4. **Existing Land Use (site):** 304 Household Living dwelling units within eight, 2-story buildings.
5. **Adjacent Land Use and Zoning:**

**North** – “NX2” & Village at Gray’s Lake Legacy “PUD”; Uses are mixed Multiple Household Living and Commercial and Office Uses on the former American Institute of Business campus.

**South** – “N3a”; Uses are One Household Living dwellings.

**East** – “RX1”, “N3a” & Druid Hill/Rollins Pointe Legacy “PUD”; Uses are Small Assembly and Entertainment, Multiple Household Living dwellings, and One Household Living dwelling.

**West** – “NX1”, “N3a” & “P2”; Uses are Multiple Household Living dwellings, One Household Living dwellings, and Brody Middle School.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Fleur Drive corridor between Gray’s Lake and the Des Moines International Airport. The area is characterized by mixed densities of Household Living uses and the mixed-use redevelopment of the former American Institute of Business campus.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Southwestern Hills Neighborhood and within 250 feet of the Gray’s Lake Neighborhood. The neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2020 (22 days prior to the hearing due to New Year Holiday) and January 11, 2021 (10 days prior to the hearing) to the Southwestern Hills and Gray’s Lake Neighborhood Associations 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 on the date of the mailing. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321. The Gray’s Lake Neighborhood Association mailings were sent to Stefanie Running, 1334 Loomis Avenue, Des Moines, IA 50315.

8. **Relevant Zoning History:** The subject property was zoned to “NX2” Neighborhood Mix District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.

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

10. **Applicable Regulations:** The owner is seeking a design alternative to the provisions of Section 135-2.1.7.B.2. which states that trash, recycling and other refuse areas must be located within the rear yard outside of any minimum required setback. When no rear yard exists or when the rear yard is less than 10 feet in
depth, trash, recycling and other refuse areas may be located in the rear portion of an interior side yard.

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;
II. ADDITIONAL APPLICABLE INFORMATION

1. Trash Enclosures: The owner proposes to add additional trash enclosures for better distribution for access by residents of the eight Multiple Household Living dwellings on the property. Two enclosures are being removed from locations next to Fleur Drive and placed in interior side yards. There is an existing enclosure that is not visible from any public street view. The two proposed enclosures would be located at the north and south ends of the existing on-site parking lots west of the complex. The northern location would be approximately 85 feet and the southern enclosure would be located approximately 160 feet from Southwest 23rd Street.

The enclosures are proposed to be constructed with metal frames and composite board siding, which has been considered an acceptable material for enclosures on existing built sites. Additionally, each enclosure would be planted with a robust landscaping plan including an overstory tree, shrubs and perennials.

In reviewing the site staff would note that the enclosures would be visible from street view but would be substantially set back and minimized in their appearance given existing parking and proposed landscaping. Staff recognizes the practical motivation to provide more distributed access for residents. This is difficult to achieve keeping the enclosures outside of the front yard.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternatives to waive the requirement for trash enclosure areas to be located within a rear yard or interior side yard subject to the submitted alternative design documentation and landscape planting scheme.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Mike Bleecker 100 Tristate International Drive, Lincolnshire, IL stated they are trying to strategically place new dumpsters for better distribution from the residences. They agree with staff recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Tim Hickman 2222 Willomere Drive stated the neighborhood has a history of maintenance challenges with this property owner. The dumpsters are currently sitting open at the end of the parking lot, with an unmaintained parking lot on the Southwest corner of the property. The owners have not done much to respond to the concerns of
the neighbors about general maintenance. He would request to see something more detailed that would accommodate the slope of the site and the landscaping is followed through and maintained.

Greg Wattier asked Mr. Hickman if he has concerns with the proposed locations of the dumpsters.

Tim Hickman stated the quality and location are not a contribution to the character of the street they are trying to improve.

Erik Lundy stated the only thing being proposed tonight would be the location. The commission can request enhanced conditions to mitigate the design.

Manuel Siprut, 2229 Willowmere Drive stated he has contacted property management over the years about their lack of maintenance and whatever is agreed on tonight needs to maximize the potential for maintenance of the property.

Margaret Smith, 2301 Virginia Avenue stated this is her front yard and has made several complaints about the location and maintenance of the dumpsters. She hopes to encourage better maintenance of the dumpster, with the possibility of creating a buffer between the dumpsters and the street.

Mike Bleecker stated they have been new owners for just over a year and recognize the deficiencies on the property. They are aware of the issues taking place on the Southwest corner and do have plans to improve that area. This is their first property in Des Moines and they hope to become better neighbors to the residents around them.

Will Page asked if Mr. Bleecker would have a professional landscape architect give the commission a drawing for better sense of what they will look like?

Mike Bleecker stated they had these plans drawn by a local landscape contractor based on what the City requires.

Greg Jones stated he would be glad to help with the understanding of the landscape drawing.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Kayla Berkson stated she would be curious if they have thought through the topography of the site and how it would all fit together.

Erik Lundy stated the enclosure would need to be the height of the container at a minimum. The plantings are following the requirements the City has as they would want in any location on the site. The metal framed gates aren’t as durable as masonry enclosure but is fulfilling the standard. Until enclosures are in place, they would be subject to enforcement from the Neighborhood Inspection Division.

Dory Briles asked for Greg Jones to explain how high each planting would be.
Greg Jones stated the Mock Orange is a shrub and will be as high as the enclosure. The perennials are lower, creating a layered look and the hackberries would add shade and contrast. He believes it does meet the requirements the City has for screening.

Will Page asked if the planting plan is sufficient for the various locations?

Greg Jones stated they might have to adjust them depending on the site but if they use that number of plants, it will work.

Carolyn Jension asked for clarification on the requirements of existing development, verse new development.

Erik Lundy stated the landscaping comes with the new zoning code, in the past the City didn’t have landscaping provisions for enclosures. The difference with existing sites, the City has alternate enclosure designs for existing dumpsters so it doesn’t become a huge investment to comply with screening.

Carolyn Jension asked if this was created to support neighborhoods.

Erik Lundy stated they wanted existing sites to comply with screening so containers aren’t sitting out unabated.

COMMISSION ACTION:

Greg Jones made a motion for approval of the requested Type 2 Design Alternatives to waive the requirement for trash enclosure areas to be located within a rear yard or interior side yard subject to the submitted alternative design documentation and landscape planting scheme.

THE VOTE: 12-2 (Greg Wattier and Will Page voted in opposition)

Item 12

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, to allow a building addition for resident swimming pool and auditorium use on the west, to allow a terrace/pond landscape feature in the north side of the site, to allow expansion of the existing parking lot within the front yard area along 37th Street, to allow renovation of the central courtyard area, to allow expansion of beer, wine and liquor service within the Chamberlain Mansion and within all other dining service areas, to remove Children’s Garden and Preschool use as a permitted use, and to revise list
of permitted accessory uses to include restaurant, assembly/event space, residential support service, studio or instructional service, adult daycare, and indoor sports/recreation.

(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.
   i. Revise list of permitted accessory uses to include restaurant, assembly/event space, residential support service, studio or instructional service, adult daycare, and indoor sports/recreation.

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 included undeveloped land owned by the applicant and 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 December 3, 2020 public hearing by mailing of the Preliminary Agenda on November 13, 2020 and by the Final Agenda on November 25, 2020. They were notified of the December 17, 2020 public hearing by mailing of the Final Agenda on December 11, 2020. They were notified of the January 21, 2021 public hearing by mailing of the Preliminary Agenda on January 7, 2021 and by the Final Agenda on January 15, 2021.

   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) and on January 11, 2021 (10 days prior to the January 21, 2021 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.

   The applicant conducted a virtual meeting with neighboring property owners and the Greenwood Historic Neighborhood. 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.

### III. 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. **Open Space:** The applicant owns approximately 3 acres of undeveloped land located immediately to the south of the “PUD” Planned Unit Development District. While this land is located outside of the “PUD” District, they have agreed to not develop this land in accordance with the following statement on the “PUD” Conceptual Plan: “There shall be no future building or parking improvements out the of the “Development Restriction Line”, located 850 feet to the south of the Grand Avenue Right-of-Way. Any amendment to this plan that would normally be allowed administratively south of the “Development Restriction Line” requires notice to the surrounding property owners and the neighborhood association in accordance with the P&Z’s stand notification procedures for rezoning.”

5. **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.

6. **Accessory Uses:** The amendment proposes a list of accessory uses that would be permitted only so long as the primary use (retirement community) of the property continues. This includes restaurant, assembly/event space, residential support service, studio or instructional service, adult daycare, and indoor sports/recreation. It also states that the accessory uses would be available to residents and non-residents. It also states that memberships would be required for the fitness areas, with a maximum 300 memberships.
7. **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 use 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.

The PUD Conceptual Plan states that any small assembly/event center selling or serving alcoholic liquor, wine, and/or beer shall comply with the following:

- Any sale or service of alcoholic liquor, wine, and/or beer shall operate in accordance with the appropriate licenses and/or permits obtained through the Office of the City Clerk as approved by the City Council.
- The business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control. The business shall have no outside speakers or amplified sound except when used in compliance with a type E sound permit.
- The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
- The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.
- Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.
- If the City’s Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the PUD Conceptual Plan, the Zoning Enforcement Officer may apply to the Plan & Zoning Commission to reconsider the allowance of “small assembly/event center” as a permitted accessory use.

### 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.

(Rock Sposato left the meeting)

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Abby Chungath asked if the requirement for the stormwater certification would be during the next phase of this project.

Bert Drost stated yes.

Abby Chungath asked if there is currently any indication that the basin isn’t operating as it should?

Bert Drost stated there was speculation from the neighbors that is wasn’t functioning as it should but they have met Adam Prilipp, City Engineer and he was comfortable with slight modifications for it to be functioning as designed.

Darren Schlapkohl, Vice President of Development 12817 Cardinal Lane, Urbandale, IA stated Wesley Acres is the birth place of the mission that started 74 years ago in the Chamberlin Home that is located on this property. They currently serve over 1,000 seniors on an annual basis and just over 300 full time residents. The project tonight is to enhance the wellness program, culinary experiences and complete restoration of the Chamberlin House. They hope this is the right plan to position Wesley Acers to serve their residents for the next 20 years. Their number one objective was to address stormwater and Bishop Engineering has designed a system that will discharge less than half of the water than is currently discharged by adding new water feature on the
front part of the property. They will also be expanding the detention area that is in the wooded area on the property. They are currently more than 45% greenspace and making a significant investment in landscaping throughout the grounds, as well buffering from surrounding properties. They are requesting the 8 parking spots to relieve pressure from the Bolton building and accommodate their auxiliary uses for the neighborhood.

They feel strongly about taking every question and concern into consideration and have met multiple times with the Greenwood Historic Neighborhood Association.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Carol Maher 701 Polk Blvd stated there is a lot of concrete around the property and asked if they would consider finding a place for bike racks.

Nick Larson 127 34th Street read submitted letter verbatim.

Kevin MacFee 321 37th Street stated in 2018 they jumped on this property because of the stature and beauty of the neighborhood. He is not opposed to all development but when it starts to affect property values, he feels the need to speak up. Item #6 in the staff recommendation talks about buffering for the parking but nothing buffering them from this big addition. Mr. MacFee continued to show visuals from his backyard. They would be in support of something smaller and ideally in different location.

Kathy Fehrman, 4000 Ingersoll Avenue stated she hopes an agreement can be made to meet the needs of Wesley Acres and the needs of adjoining neighbors. The stormwater basins have not been maintained and at times the restriction plate is not in place. The flow of water generated from this site has caused the loss of homes for two families in the neighborhood. She requests an attached condition that requires an independent inspection of all detention areas on their property be submitted to the City on an annual basis.

Rochelle Quiner, 119 34th Street read submitted letter verbatim.

Mark Quiner, 119 34th Street read submitted letter verbatim.

Craig Ibsen, 207 37th Street stated he shares the concern of Mr. MacFee and believes with a little effort, those concerns could be addressed. He would urge the Commission to find a resolution that will accommodate the needs of the retirement community and the residents along the West side of 37th Street.

Christine Hines, 3401 John Lynde Road read a submitted portion of the minutes from the November 30, 2000 Greenwood Historic Neighborhood Association board meeting, along with a letter she wrote.

Lon Steger, 13 Southwest 34th Street stated this property is already over-developed and very dense. He believes it doesn’t make since to move West towards 37th Street, when the have adequate room for more parking behind the Wesley Bolton building. If
the 8 parking spots are allowed, you can bet there will be access and egress off 37th Street in the future.

Erik Bergeland, 3314 John Lynde Road stated it’s interesting that not only the folks from Wesley Acres, but City staff cite a commercial reason to support this intrusion on the neighborhood. What request for an expansion to a commercial building would not provide a commercial benefit? That cannot be a reason to approve a plan because no one expands a commercial property, unless there is business reason to do so. It appears, the location is based on not only to have these extra amenities but the commercial convenience of it.

Scott Carlson, 315 37th Street read submitted letter in opposition.

Darren Schlapkohl stated the aquatics building is approximately 35 feet tall, which wouldn’t reach the top of the existing building. What has been left out is the commitment made to Scott Carlson and Kevin MacFee to collaboratively landscape the buffers between them and Wesley Acers with a sizeable investment made by Wesley Acers. He has heard people relate to us as a tax-exempt organization but they pay $275,000 in property taxes annually for this campus and they aren’t asking for reductions. They did look at switching the buildings but there isn’t a good way to put it on the East side. They have selected glass that has a 2% reflectivity rate and the lighting cannot extend above the pool so therefore level will be below the fence in Mr. MacFee’s backyard. He believes they have hit every item that has come up in discussion via in person, email, phone or virtual meetings.

Greg Jones asked if the applicant disagrees with condition #4 and #6.

Darren Schlapkohl stated they still have the 8 spaces identified in condition #4. Condition #6 they don’t disagree with and have designed with that intent.

Bert Drost stated staff was recommending only the new parking areas meet NX-3 requirements.

Greg Wattier asked for the setback from building “I” to Mr. MacFee’s property line.

Darren Schlapkohl stated according to GIS, 81-feet.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jann Freed wanted to thank the neighborhood for the research and expressing themselves so well.

Francis Boggus stated at this time he would not be in support of staff recommendation.

Greg Wattier stated he would be in support of staff recommendation because he believes the work being done is positive for the value of their property and some ways the value of adjacent properties. He doesn’t feel a 35-foot tall building, setback over 75-feet is a huge encumbrance to adjoining neighbors.
Greg Jones stated he would be in support of Greg Wattier comments and support staff recommendation.

Dory Briles stated she would support staff recommendation.

Johnny Alcivar stated he would support staff recommendation but would ask for more detail regarding the buffering of adjoining neighbors.

Bert Drost stated condition #6 could be reworded as “the buffer shall be reviewed and approved by the Plan and Zoning Commission during the Development Site Plan Review”.

Greg Wattier stated he would support that.

**COMMISSION ACTION:**

Dory Briles made a motion for 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 with the buffer being reviewed and approved by the Plan and Zoning Commission during the Development Site Plan Review. 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.

THE VOTE: 8-4-1 (Francis Boggus, Carolyn Jension, Steve Wallace and Will Page voted in opposition. Jann Freed abstained from the vote).

**************
**************

Item 13 (withdrawn)

Request from Greater Des Moines Habitat for Humanity, Inc. (owner) represented by Lance Henning (officer), for the following regarding the property at 1535 East 19th 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 Business Park to Low Density Residential. (21-2020-4.30)

C) Rezone property from “EX” Mixed Use District to “N3a” Neighborhood District, to allow the property to be developed with a One Household Living dwelling. (ZON2020-00159)

**************
**************

Item 14

Request from JC AM Group, LLC (owner) represented by John Cheng (officer) for the following regarding the property at 1503 5th Avenue:

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Low Density Residential to Low-Medium Density Residential. (21-2021-4.02)
C) Rezone property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow the property to be converted a Two-Household Living use (duplex).

(ZON2020-00164)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning is necessary for the existing house to be occupied as a duplex. The application indicates that the building was previously converted from a one-household dwelling to a three-household building. There are no records of it being converted and having legal non-conforming zoning rights. Therefore, the property can only be used for a one household dwelling unless it is rezoned.

The applicant purchased the property in September 2019 and began renovating the property shortly thereafter. They were advised of the need to obtain a building permit by inspection staff in November 2019. The applicant obtained a permit and continued renovations. The building permit was issued based on the building being used as a one household dwelling. During the follow-up inspection process staff became aware of the applicant’s intent to convert the building to a duplex.

2. Size of Site: 75 feet by 125 feet (9,375 square feet or 0.215 acre).

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

4. Existing Land Use (site): The property contains a house style residential building.

5. Adjacent Land Use and Zoning:

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

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

7. Applicable Recognized Neighborhood(s): The subject property is in the River Bend Neighborhood. All neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2021 (20 days prior to the hearing) and January 11, 2021 (10 days prior to the hearing) to the applicable 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 River Bend Neighborhood mailings were sent to Jon Royal, 1830 8th Street, Des Moines, IA 50314.

8. Relevant Zoning History: None.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The applicant is requesting that the future land use designation for the property be amended from “Low Density Residential” to “Low-Medium Density Residential.” This is necessary as the proposed number of units represents a density of 9.3 units per acre. Plan DSM describes these designations as follows:

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

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

   The subject property is currently zoned “N5” District. The Zoning Ordinance describes this district as “intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominately in the Victorian, Revival, and Arts and Crafts styles pursuant to House D building type in section 135-2.16 of this code.”

2. Planning and Design Ordinance: If the rezoning be approved, the applicant will be required to obtain a Type 2 Design Alternative from the Plan and Zoning Commission to allow a House D building type that was originally constructed as a one household dwelling to be converted to a duplex per Section 135-2.16.3.E.4. Chapter 135 only allows multiple units within a House D building if it was originally constructed to house multiple units.

   Much of the rear yard and the perimeter around the house was recently paved. The Planning and Design Ordinance allows no more than 50% of the site to be covered by buildings and pavement. The property appears to significantly exceed this maximum.
Excess hard surface increases stormwater runoff and negatively impacts the visual character of a property and the surrounding area. Staff believes that no more than 50% of the property should consist of impervious surfaces (buildings & pavement) and that excess pavement should be removed.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “N5-2” Neighborhood Mix 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 to Low-Medium Density Residential.

Part C) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to a street is prohibited.

2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

David Miller 178 County Line Rd, Runnells, IA stated Mr. Cheng has invested $300,000 in renovation and property improvements. He believes Mr. Cheng will be a very attentive and active landlord with a great looking property. Mr. Cheng did go ahead with construction in hopes the zoning would be changed. He doesn’t want to reduce concrete on the property as the sidewalks sever as a convenience to the residents and their entry doors. He would be willing to remove some concrete from the North park of the parking area and replace it with gravel if necessary for compliance.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Carolyn Jension stated this property used to be a daycare center and that is probably why there is concrete on the backside of the property. She does know the neighborhood association did work hard to prevent houses from becoming duplexes in the past.
Jason Van Essen stated the applicant attended a neighborhood meeting and there was mixed emotion about it. At the time they were told there wasn’t a staircase in the house and has already been converted. Some of the recent concerns were work being done without permits and past efforts of avoiding duplexes in the neighborhood.

Carolyn Jension stated she has experience with sitting on a commission where they feel sympathetic to a buyer being uneducated about the property being a duplex. The neighborhood has worked hard to educate the buyer.

Mike Ludwig stated he does recall the down-zoning the City did in the River Bend Neighborhood. The area was rezoned from R-3 down to a single family residential zoning. Part of that was due to concerns about single family homes being carved into multiple units. Even after a similar down-zoning of the Drake neighborhood, there has been some support for large houses being converted into 2 units. As far as taking this property back to what it was, the previous zoning allowed multi-family residential, which was based on the lot area. No more than 2 units would be allowed with this zoning change.

Will Page asked if City staff’s recommendation was made to reach a compromise?

Jason Van Essen stated staff tried to see if there was anything needed to mitigate impact. With any case that comes before the Commission, staff looks at impact that needs to be mitigated and how you achieve that.

**COMMISSION ACTION:**

Will Page made a motion for approval of Part A) the proposed rezoning to “N5-2” Neighborhood Mix 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 to Low-Medium Density Residential and Part C) **APPROVAL** of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to a street is prohibited.

2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator.

**THE VOTE:** 12-1 (Carolyn Jension voted in opposition)
Request from Woodsonia Acquisitions, LLC (purchaser) represented by Jeff Elliott (officer), for the following regarding the property at 2510 Ingersoll Avenue. The subject property is owned by the Noah L & Sara Ann Lacona Revocable Trust (owner), represented by Antoinette Lacona-Erickson (trustee):

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

B) Rezone property from “MX2” Mixed Use District to “MX3” Mixed Use District, to allow use of the property for a “Restaurant” use with a “Drive-Through” component as an accessory use. (ZON2020-00166)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to renovate the existing building and site. The value of the improvements that require building permits exceeds 50% of the assessed value of the building. As a result, the building and site must be brought into conformance with current standards. The Planning and Design Ordinance does not allow drive-through facilities on properties zoned “MX2” District. Therefore, the applicant is requesting to rezone the property to the “MX3” District to allow a drive-through.

2. Size of Site: 33,964 square feet or 0.78 acres.


4. Existing Land Use (site): The site contains a one story commercial building with 3,873 square feet of gross floor area.

5. Adjacent Land Use and Zoning:
   - North – “MX2”; Uses are commercial in nature.
   - South – “RX2”; Uses are commercial in nature.
   - East – “MX2”; Uses are commercial in nature.
   - West – “MX2”; Uses are commercial in nature.

6. General Neighborhood/Area Land Uses: The subject property is located on the Ingersoll Avenue corridor, which contains a mix of commercial and multiple-family residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Woodland Heights Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate
notifications of the hearing for this specific item were mailed on December 30, 2020 (20 days prior to public hearing) and January 11, 2020 (10 days prior to initial public hearing) to the Woodland Heights Organization 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 Woodland Heights Organization notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

8. Relevant Zoning History: N/A.

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

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

III. STAFF RECOMMENDATION

Staff recommends that this item be continued to the February 18, 2021 meeting of the Commission.

SUMMARY OF DISCUSSION

Jann Freed stated the application for item #15 has requested a continuance to the February 18, 2021 meeting.

COMMISSION ACTION:

Greg Wattier made a motion to continue item #15 to the February 18, 2021 meeting.

THE VOTE: 14-0

Committee and Director’s Reports:

Jann Freed appointed Emily Webb, Carolyn Jension and Lisa Howard to the nominating committee.
Meeting adjourned at 9:30