The February 4, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 886 6842 1323.


P&Z ABSENT: Greg Wattier

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

Emily Webb made a motion to approve the January 21, 2021 Plan and Zoning Commission meeting minutes. Motion carried 13-0

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2 or #3. No one requested to speak.

Dory Briles made a motion to approve Consent Agenda Items #1, #2 and #3. Motion carried 13-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request from Phil Wageman (Real Estate Manager) for vacation of a segment of East 38th Street from Hubbell Avenue to East Douglas Ave, to allow it to be assembled with property at 3765 Hubbell Avenue owned by Git-N-Go Convenience Stores, Inc. as part of previous agreement with the owner for acquisition of a part of that property for use in the relocation of East Douglas Avenue project at Hubbell Avenue. (11-2021-1.01)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: On May 22, 2017, the City Council voted to authorize the acquisition of property interests for the Hubbell Avenue Improvements - East 33rd Street to East 38th Street Project ("Project"). The Project required the acquisition of a partial fee, access rights, a permanent easement and a temporary easement from Git-N-Go Convenience Stores, Inc. at 3735 and 3765 Hubbell Avenue.

The City’s acquisition required the purchase and removal of the former Git-N-Go convenience store at this location and did not leave an adequate amount of remaining land to replace the convenience store. The project also resulted in the permanent closure and removal of East 38 Street between the north right-of-way line of East Douglas Avenue and the south right-of-way line of Hubbell Avenue,
allowing for the vacation and conveyance of this section of East 38th Street to Git-N-Go after the Project was completed to construct a replacement convenience store.

As part of the negotiated purchase agreement with Git-N-Go, the City agreed to vacate and convey the above referenced portion of East 38th Street to create a parcel of land comparable in size to Git-N-Go's original property before the Project, thus providing Git-N-Go with an adequate site to replace their convenience store.

2. **Size of Site**: 0.20 acres or 8,646 square feet.

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

4. **Existing Land Use (site)**: Unpaved street right-of-way.

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

   **North** – “MX3”; Uses are a self-service car wash facility and excess land owned by the City because of the street project discussed in Section I, paragraph 1 of this report.

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

   **East** – “PUD”; Use is a shelter for the homeless for approximately 100 women and children including classroom, office, and daycare space operated by Hope Ministries.

   **West** – “PUD”; Use is a multiple household residential development.

6. **General Neighborhood/Area Land Uses**: The subject right-of-way is located along the south side of the Hubbell Avenue corridor. This segment of Hubbell Avenue contains a mix of commercial uses and multiple household dwelling. The neighborhood to the south consists primary of one household dwellings.

7. **Applicable Recognized Neighborhood(s)**: The subject properties are in the Sheridan Gardens Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 15, 2021 and by mailing of the Final Agenda on January 29, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 25, 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 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**: Commercial 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 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:** 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.

3. **Planning and Design Ordinance:** Any future redevelopment of the subject right-of-way by Git-N-Go Convenience Stores, Inc. or others must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested right-of-way vacation 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**

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 right-of-way vacation 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:** 13-0
Item 2

City initiated request from Erin Olson-Douglas (Development Service Director) for vacation of the following scattered segments of public street Right-Of-Way in furtherance of the implementation of the Market District at East Village Large-Scale Development Plan:

A) Segment of the west side of Southeast 3rd Street between East Vine Street and East Market Street.
B) Southeast 3rd Street from the south side of East Market Street to a point 71.90 feet north.
C) East Market Street from Southeast 3rd Street to Southeast 4th Street.
D) Segment of the west side of Southeast 4th Street between East Market Street and Vacated East Elm Street.
E) Segment of the west side of Southeast 4th Street between Vacated East Elm Street to the south side of Vacated Raccoon Street.
F) Segment of the west side of Southeast 4th Street between Vacated Raccoon Street and East M.L. King Jr. Parkway.
G) Segment of the east side of Southeast 4th Street between East Vine Street and Vacated East Market Street.
H) Segment of the east side of Southeast 4th Street at Vacated East Market Street.
I) Segment of the east side of Southeast 4th Street between Vacated East Market Street and East Elm Street.
J) Segment of the east side of Southeast 4th Street between East Elm Street and East Raccoon Street.
K) Segment of the east side of Southeast 4th Street at Vacated Raccoon Street.
L) Segment of the east side of Southeast 4th Street between Vacated Raccoon Street and East M.L. King Jr. Parkway.
M) Segment of the west side of Southeast 5th Street between East Vine Street and Vacated East Market Street.
N) Segment of the west side of Southeast 5th Street at Vacated East Market Street.
O) Segment of the west side of Southeast 5th Street between Vacated East Market Street and East Elm Street.
P) Segment of the west side of Southeast 5th Street between Vacated East Elm Street and Raccoon Street.
Q) Segment of the west side of Southeast 5th Street at Vacated Raccoon Street.
R) Segment of the west side of Southeast 5th Street between Vacated Raccoon Street and East M.L. King Jr. Parkway.
S) Segment of the east side of Southeast 5th Street between East Vine Street and East Market Street.
T) Segment of East Market Street from Southeast 5th Street to Southeast 6th Street.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The proposed vacations would be in furtherance of the Market District Large-Scale Development Plan, to accommodate Right-Of-Way (ROW) acquisitions needed to reconfigure block areas for redevelopment.

2. **Size of Site:** Approximately 1.723 acres (75,051 square feet) of ROW cumulatively.

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

4. **Existing Land Use (site):** The affected areas consist of public street ROWs.

5. **Adjacent Land Use and Zoning:** Adjacent land uses include a mix of industrial, public, and commercial uses.

   North – “DX2”

   South – “DX2”

   East – “DX2”

   West – “DXR” & “DX2”.

6. **General Neighborhood/Area Land Uses:** The subject area is generally bounded by East Vine Street on the North, East M.L. King Jr. Parkway on the south, Southeast 6th Street on the east, and Southeast 3rd Street on the west. The area consists of a mix of industrial, public, and commercial uses within the Market District.

7. **Applicable Recognized Neighborhood(s):** The subject ROWs are in the Historic East Village Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 15, 2021 and by mailing of the Final Agenda on January 29, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 25, 2021 (10 days prior) to the applicable neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Historic East Village Neighborhood Association mailings were sent to Taylor Frame, PO Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** On December 20, 2020 by Ordinance No. 15,961, the City Council rezoned the subject area of the Market District and East Village to “DX1” Downtown District along with the adoption of the Market District Large-Scale Development Plan. The plan established maximum building heights for the Capitol Viewshed Corridor and each of the blocks outside the corridor.

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Downtown 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 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 affected ROW areas include Des Moines Water Works mains, water valves, water hydrants; City of Des Moines public sanitary sewer mains, manholes; City of Des Moines storm sewer mains, manholes, intakes; City of Des Moines traffic signal underground fiber; non-City owned communications fiber; and MidAmerican Energy overhead and underground electrical utilities, underground gas utilities. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated as part of redevelopment by private developers or in accordance with a development agreement with the City of Des Moines.

2. **Traffic/Access:** The requested ROW vacations are in furtherance of the Traffic Study for the Market District at East Village and the Market District at East Village Large Scale Development Plan 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 as part of redevelopment of the Market District at East Village area at the expense of private developers or in accordance with a development agreement with the City of Des Moines

**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 right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated as part of redevelopment of the Market District at East Village area at the expense of private developers or in accordance with a development agreement with the City of Des Moines.

**THE VOTE: 13-0**
Item 3

Request from David Scott (owner) for review and approval of a Public Hearing Site Plan “Family Eye Health” 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 6002 Southwest 9th Street, to allow a 1,715-square foot addition and a 114-square foot addition to an existing 3,805-square foot Storefront building used for Medical Office use in an “RX1” Mixed Use District, where an on-site parking lot would be constructed within the front yard area along Payton Avenue where on-site parking is only allowed in a rear yard or limited side yard only per Section 135-2.5.3.A.8.

(10-2021-7.40)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed site plan would allow construction of 1,715-square foot addition and a 114-square foot addition to an existing 3,805-square foot Storefront building, resulting in a 5,634-square foot building. The Site Plan would also allow construction of an off-street parking lot (containing six (6) parking spaces) in the front yard along Payton Avenue. This parking lot requires a Type 2 Design Alternative since any off-street parking for a Storefront building type in an “RX1” District is only allowed in a rear or side yard. The proposed paving would be within 25 feet of the north front property line and within 10 feet of the west side property line.

2. **Size of Site:** 21,950 square feet (0.50 acre).

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

4. **Existing Land Use (site):** The subject property is an “L”-shaped parcel that contains an existing 3,805-square foot medical office building occupied by Family Eye Care, as well as a surface parking lot to the east (front) of the building. The northern portion of the property is open space.

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

   North – “RX1”, Uses are Payton Avenue and a parcel that contains a billboard.

   South – “RX1”, Use is an office and phone utility building.

   East – “RX1”, Uses are Southwest 9th Street and a hair salon (Clippernomics).

   West – “N3a”, Use is an undeveloped lot that is owned in common with the parcel known as 930 Payton Avenue, which contains a one-household dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located along Southwest 9th Street in an area that contains a mix of commercial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Watrous South Neighborhood and within 250 feet of the Fort Des Moines Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on January 15, 2021 and the Final Agenda on January 29, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 25, 2021 (10 days prior to the hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Watrous South Neighborhood mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315, and the Fort Des Moines Neighborhood mailings were sent to Scott Durham, 301 E. Kenyon Ave, Des Moines, IA 50315.

8. **Relevant Zoning History:** On October 16, 2019, the City Council adopted Ordinance No. 15,818 repealing the previous City Zoning Map and adopting a new City Zoning map. At that time, the subject property was designated as “RX1” Mixed Use District.

9. **PlanDSM Future Land Use Plan Designation:** Community Mixed Use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL INFORMATION

1. Type 2 Design Alternative Requested: Surface parking within the front yard where not allowed: Section 135-2.5.3.A of the Planning and Design Ordinance applicable to Storefront buildings within the “RX1” District allows for surface parking and loading to occur within rear and interior side yards only. The proposed Site Plan includes an off-street parking lot that would be located within the front yard area along Payton Avenue. The proposed paving would be within 16 feet of the north front property line.

2. Staff Rationale: Given the placement and configuration of the existing building, it is reasonable for the proposed parking lot to be in front of the proposed building. Granting this design alternatives would not have a substantial or undue adverse effect upon adjacent property or be detrimental to the character of the surrounding area or to the public health, safety and general welfare. The impact of the parking lot in this location would be minimal.
Staff believes that the proposed 25-foot paving setback from the north front property line is appropriate and compatible with the adjoining properties. If the undeveloped parcel immediately to the west were to develop, any dwelling would be required to provide a minimum 25-foot front yard setback, which is based on an average of the two (2) houses to the west.

The proposed 5,634-square foot office building requires 15 off-street parking spaces (1 parking space per 400 square feet of office use). The proposed six (6) additional parking spaces would allow the property to have 24 off-street parking spaces.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to allow construction of a parking lot within 25 feet of the front property line along Payton Avenue, subject to compliance with all administrative review comments from the City’s Permit & 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 to allow construction of a parking lot within 25 feet of the front property line along Payton Avenue, subject to compliance with all administrative review comments from the City’s Permit & Development Center.

THE VOTE: 13-0

Committee and Director’s Reports:

Election of Officers:

Francis Boggus made a motion to approve the following slate of officers as recommended by the nominating committee:

Dory Briles – Chair
Emily Webb – 1st Vice Chair
Abby Chungath – 2nd Vice Chair

Motion Carried: 13-0

Meeting adjourned at 6:15pm