The April 1, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 864 0580 9363.


P&Z ABSENT: Francis Boggus

STAFF PARTICIPANTS: Katherine Drahos, Bert Drost, Glenna Frank, Tyler Hall, Judy Parks-Kruse, Erik Lundy, Anuprit Minhas and Jason Van Essen.

Jann Freed made a motion to approve the March 18, 2021 Plan and Zoning Commission meeting minutes. Motion carried 8-0-4 (Rocky Sposato, Will Page, Lisa Howard and Greg Wattier abstained as they were not present for the March 18th meeting).

Dory Briles asked if any members of the public or the Commission wished to speak on consent agenda items #1, #2, #3, #4, #5 or #6. No one was presented or requested to speak.

Emily Webb made a motion to approve consent agenda items #1, #2, #3, #4, #5 and #6. Motion carried 13-0

Dory Briles stated the applicant for item #11 has requested a continuance to the April 15, 2021 Plan and Zoning Commission meeting.

Jann Freed made a motion to continue item #11 to the April 15, 2021 Plan and Zoning Commission meeting. Motion Carried 13-0

Dory Briles stated the applicant for item #12 and #13 have requested a continuance to the May 6, 2021 Plan and Zoning Commission meeting.

Abby Chungath made a motion to continue item #12 and #13 to the May 6, 2021 Plan and Zoning Commission meeting. Motion Carried 13-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from AHEPA Management Company (purchaser) represented by Steve Beck (officer) for the following regarding the property located at 1111 East Army Post Road. The subject property is owned by Macerich Southridge Mall, LLC represented by Tom Unis (officer).

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
B) Rezone property from “CX” Mixed Use District to “RX2” Mixed Use District, to allow development of the property with senior Household Living use allowing dwelling units on the ground floor level.  (ZON2021-00029)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The rezoning would allow construction of a multiple-household dwelling intended for low-income senior (age 55+) residents with residential uses on all floor. “CX” District allows residential uses on upper stories only. Any construction must be in accordance with a site plan reviewed and approved by the City’s Development Services Department. The proposed “RX2” Mixed Use District would allow for review under the General Building Type (Chapter 135-2.7), Flat Building Type (Chapter 135-2.11), or Row Building Type (Chapter 135-2.12) requirements.

2. Size of Site: 4.3 acres (187,488 square feet).


4. Existing Land Use (site): Open space and surface parking lot associated with Southridge Mall.

5. Adjacent Land Use and Zoning:

   North – “CX”; Uses are open space and surface parking lot associated with Southridge Mall.

   South – “CX”; Uses are open space and surface parking lot associated with Southridge Mall.

   East – “CX”; Use is Southridge Mall.

   West – “PUD”; Uses are a mix of single-household and multiple-household uses.

6. General Neighborhood/Area Land Uses: The subject property is located along the east side of Southeast 5th Street, west of Southridge Mall, and south of the intersection with East Army Post Road.

7. Applicable Recognized Neighborhood(s): The subject property is in the Somerset Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed March 19, 2021 (20 days prior to the hearing) and March 12, 2021 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.
All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines on the date of the mailing. The Somerset Neighborhood Association notices were mailed to Mel Pins, 210 East Bundy Avenue, Des Moines, IA 50315.

The applicant is required to send a neighborhood outreach letter to the neighborhood association and to all property owners within 250 feet of the site. They must submit a summary of that outreach to staff three (3) days before 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. PlanDSM Creating Our Tomorrow: The subject property is designated “Regional Mixed Use” on the Future Land Use Map. The requested rezoning to “RX2” Mixed-Use District is in conformance with Regional Mixed Use. Plan DSM describes the Regional Mixed Use designation as follows:

   Large-scale mixed-use development, located on or at crossroads of major transportation corridors, emphasizing commercial, retail, and parking. High density residential may be incorporated within a development or along edges as transition to adjacent lower density residential. Mixed use may be horizontal as well as vertical, so there is no requirement that every building be mixed. May emphasize active uses (e.g. retail) on the ground floor, particularly at key intersections.

2. Permitted Uses: The “RX2” District is required in order for the proposed senior housing living development to include housing units on the first floor of the building.

3. Planning and Design Ordinance: Any construction must comply with all applicable site plan and design regulations of the Chapter 135 Planning and Design Ordinance. The “RX2” Mixed Use District would allow for review under the General Building Type (Chapter 135-2.7), Flat Building Type (Chapter 135-2.11), or Row Building Type (Chapter 135-2.12) requirements.
A Large-Scale Development plan would be required at the time sale of the subject property to the applicant is completed, as the platting necessary to facilitate the sale would impact property that is more than 5 acres in size.

4. **Staff Rationale:** There is a need for housing in this portion of the city that is designed, situated and operated to meet the specific needs of older individuals. The unique needs of seniors include, but are not limited to, age specific recreation opportunities, low grade access points, efficient emergency service access points, and overall design features that provide an environment that is specifically conducive to older individuals. Therefore, staff recommends approval the request subject to any household living use being limited to senior living.

The property is situated on two bus lines with more than one stop within walking distance, as well as a road network that facilitates easy access to the greater regional transportation network. This location would provide senior residents with walkable access to various goods and services and ease of access to recreational locations and activities. Grocery and medical clinic services are nearby as well. The development would also provide an increased transition between the mall and the mixed residential uses to the west.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed “RX2” Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan land use designation of Regional Mixed Use.

Part B) Staff recommends approval of the request to rezoning the subject property from “CX” Mixed Use District to “RX2” Mixed-Use District subject to any household living use being limited to senior living.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Emily Webb made a motion for:

Part A) The proposed “RX2” Mixed Use District is in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan land use designation of Regional Mixed Use, and

Part B) **APPROVAL** of the request to rezoning the subject property from “CX” Mixed Use District to “RX2” Mixed-Use District subject to any household living use being limited to senior living.

**THE VOTE:** 13-0
Item 2

Request from Cassaundra C. Johnson Revocable Trust (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 3365 McKinley Avenue, to allow construction of a new House A Building Type in an “N1a” Neighborhood District. (BLD2020-02675)

A) Allow a garage projection that extends 14 feet past the front entrance façade, which is 4 feet more than the maximum allowed 10 feet per Section 135-4.3.8(A)(1).

B) Allow a total garage door width of 31 feet which would represent 60% of the front façade width, thereby exceeding the maximum 30% of the front façade width per Section 135-2.13.3(A)(10).

C) Allow side yard setbacks on each side of the house that are 5 feet instead of the minimum required 10 feet, which is 15 feet less than minimum required combined side yard setback of 25 feet per Section 135-2.13.3(A)(5).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct an 1,881-square foot single-household dwelling with a 434.5-square foot attached garage that would have a garage entrance on the front façade of the dwelling. The applicant is requesting relief of the attached garage and side yard setback standards. 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: 67 feet by 353 feet (23,343 square feet or 0.535 acres)

3. Existing Zoning (site): “N1a” Neighborhood District.

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

5. Adjacent Land Use and Zoning:
North – “N1a”; Use is a single-household dwelling.
South – “N1a”; Use is a single-household dwelling.
East – “N3a”; Use is a single-household dwelling.
West – “P2”; Use is the Des Moines International Airport.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 22, 2021 (10 days prior to the public hearing) to the Southwestern Hill Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: N/A.


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

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

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

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and

- The facilities and services already available to the area which will be affected by the proposed site use;

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

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

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

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

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

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

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

  - An evaluation of the character of the surrounding neighborhood, such as:
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. Attached Garage Requirements: The applicant is proposing to construct an 1,881-square foot single-household dwelling with a 434.5-square foot attached garage that would have a garage entrance on the front façade of the dwelling. The garage would project 14 feet past the front entrance façade, which is 4 feet more than the maximum allowed 10 feet. Its overhead door would have a width of 31 feet, which would represent 60% of the front façade width. This would exceed the maximum 30% of the front façade width allowed.

These code requirements are in place to help reduce the overall dominance of the attached garage. In this case, staff believes that the dominance of the garage on the character of the house is reduced by the variation in materials proposed, including a significant amount of stone veneer. The architectural design of the house has a lot of detail that also helps to visually reduce garage dominance. The adjacent homes along McKinley Avenue match the character of the proposed
house design. 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.

2. **Side Yard Setbacks:** The applicant is proposing to construct the single-household dwelling with a 5-foot side yard setbacks on each side of the house instead of the minimum required 10 feet, which is 15 feet less than minimum required combined side yard setback of 25 feet. Staff believes that this setback matches the character of the adjacent homes. 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.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval to allow the garage projection to extend 14 feet past the front entrance façade, which is 4 feet more than the maximum allowed 10 feet per Section 135-4.3.8(A)(1).

Part B) Staff recommends approval to allow a total garage door width of 31 feet which would represent 60% of the front façade width, thereby exceeding the maximum 30% of the front façade width per Section 135-2.13.3(A)(10).

Part C) Staff recommends approval to allow side yard setbacks on each side of the house that are 5 feet instead of the minimum required 10 feet, which is 15 feet less than minimum required combined side yard setback of 25 feet per Section 135-2.13.3(A)(5).

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:

Emily Webb made a motion for:

Part A) **APPROVAL** to allow the garage projection to extend 14 feet past the front entrance façade, which is 4 feet more than the maximum allowed 10 feet.

Part B) **APPROVAL** to allow a total garage door width of 31 feet which would represent 60% of the front façade width, thereby exceeding the maximum 30% of the front façade width.

Part C) **APPROVAL** to allow side yard setbacks on each side of the house that are 5 feet instead of the minimum required 10 feet, which is 15 feet less than minimum required combined side yard setback of 25 feet.

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

Request from MDM Equity 2010 LLC represented by Tyler Price (agent), for review and approval of a Public Hearing Site Plan “Power & Tel.” for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 6109 Park Avenue, to allow a Workshop/Warehouse Building occupied by an “Office and Warehouse” use with a new outdoor storage area that would have 6 feet less than the minimum required 10 foot side yard setback required per Section 135-8.2.2(C).

(10-2021-7.53)

STAFF REPORT TO THE PLANNING COMMISSION

1. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to develop an outdoor storage area to the west of the existing building that would be within 4 feet of the west side property line. The storage area would be paved and screened with fencing and landscaping. All outdoor storage areas are subject to the operation standards found in Section 134-3.9.9 of the Zoning Ordinance, in addition to applicable standards found in the Planning and Design Ordinance (Chapter 135). 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 this report.

2. Size of Site: 111,839 square feet (2.57 acres).


4. Existing Land Use (site): The property contains a large light-industrial building containing warehouse and office space.

5. Adjacent Land Use and Zoning:

   North – “EX”; Use is a church located in a building originally constructed for light industrial uses.

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

   East – “EX”; Uses are office and warehousing.

   West – “EX”; Use is a vacant parcel.

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

7. Applicable Recognized Neighborhood(s): The subject property is within 250 feet of the Southwestern Hills Neighborhood. The neighborhood association was
notified of the public hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 22, 2021 (10 days prior to the public hearing) to the Southwestern Hills Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: None.


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

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

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

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

     ➢ Zoning restrictions at the time of the proposal;

   • The city’s comprehensive plan;

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

• Encourage adequate provision for surface and subsurface drainage, 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. Side Yard Setback: Section 135-2.9.3 of the Planning and Design Ordinance requires a minimum interior side yard setback of 10 feet. The applicant is proposing to construct an outdoor storage area to the west of the existing building that would be within 4 feet of the west side yard property line. The applicant has obtained an easement from the property to the west for the installation of required landscaping as 4 feet is not enough width for trees. The storage area would be 40 feet wide and would run the length of the building north-to-south.

The property is located on the northwest corner of the Park Avenue and SW 61st Street intersection. The building sets close to the streets and is separated by narrow lawns. The area north of the building consists of pavement that is utilized for parking and loading dock access. There is limited opportunity for outdoor storage to be developed elsewhere on the site except for along the west perimeter of the building. Reducing the width of the storage area to comply with the setback would greatly impact its functionality given limited area available between the building and the west property line.

Staff supports the requested Type 2 Design Alternative to allow a reduced side yard setback. 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.

III. STAFF RECOMMENDATION
Staff recommends approval of the requested Design Alternative to allow an outdoor storage area that would have 6 feet less than the minimum required 10-foot side yard setback.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for APPROVAL of the requested Design Alternative to allow an outdoor storage area that would have 6 feet less than the minimum required 10-foot side yard setback.

THE VOTE: 13-0

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Item 4

Request from River Point West LLC (owner) represented by Will Anderson (officer) for the following items related to development of a 132-unit independent living senior Household Living dwelling project proposed for 400 SW 11th Street:

A) Review and approval of a Preliminary Plat “Gray’s Landing Plat 1” for subdivision of a 4.10-acre lot for the senior housing project. (13-2021-1.29)

B) Review and approval of a PUD Final Development Plan "Slate at Gray’s Landing" for development of the senior housing project. (10-2021-7.60)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 132-unit multiple-household building on the north half of the Slate at Gray’s Landing “PUD” site. The development would operate as housing for independent senior living.

2. Size of Site: 178,719 square feet (4.1 acres).


5. Adjacent Land Use and Zoning:
**North** – “PUD”; Use is multiple-household units.

**South** – “DX2”; Use is undeveloped land.

**East** – “DX2”; Use is multiple-household units.

**West** – “PUD”; Uses are rowhouse and multiple-household units.

**6. General Neighborhood/Area Land Uses:** The subject property is in the southwest portion of the downtown in the Gray’s Landing/Gray’s Station neighborhood. The surrounding area consists of vacant land, commercial uses, multiple-household residential uses, light industrial uses, the Raccoon River, and Gray’s Lake Park.

**7. Applicable Recognized Neighborhood(s):** The subject property is located within the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on March 12, 2021 and the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item was mailed on March 22, 2021 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. The Downtown Des Moines Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street, #413, Des Moines, IA 50309.

**8. Relevant Zoning History:** The Slate at Gray’s Landing PUD rezoning and PUD Conceptual Plans were approved by the City Council on January 28, 2019 by Roll Call Numbers 19-0167, 19-0168 and 19-0169.

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

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

**II. ADDITIONAL APPLICABLE INFORMATION**

**1. Drainage & Grading:** All grading is subject to an approved grading permit and soil erosion control plan. The applicant is required to demonstrate compliance with the City’s Stormwater Management requirements to the satisfaction of the City’s Permit and Development Center. The development would utilize regional facilities designed to account for development in this area.

**2. Access & Parking:** The proposed building would front Tuttle Street to the north and Southwest 11th Street to the east. A trail adjoins the site to the west. Multiple points of pedestrian access would be provided to the adjoining public sidewalks and the trail. Vehicular access would be limited to a single driveway from Southwest 11th Street. A surface parking lot would be located within the development. The building
would contain basement-level parking accessed from the main driveway. A total of 160 parking spaces would be provided.

3. **Urban Design:** The proposed building would be 4 stories tall and would include an attached 1-story clubhouse that would house an indoor pool, fitness center, community room, spa, and hobby room. The building would provide a mix of 1-bedroom; 1-bedroom plus den; and 2-bedroom units. The building would have a C-shape with frontage along Southwest 11th Street, Tuttle Street, and a trail to west constructed by Hubbell as a part of the Gray’s Station development. Proposed materials consist of two types of fiber cement board (slate blue panel and a brown lap), light gray manufactured stone veneer, and gray rock face CMU. Windows, decks, and railing will utilize a dark bronze aluminum.

The proposal generally complies with the PUD Conceptual Plan. Section III of the report includes a few design related items that staff believe should be address. This includes the request that the applicant work with staff to look for ways to provide greater visual interest for the east façade of the clubhouse, particularly at the entrance. The appearance of this side of the clubhouse is somewhat monolithic as compared to the rest of the building. Adding variation or visual emphasis would help break up the façade, call attention to the entrance of the clubhouse, and possibly better tie this part of the clubhouse to the architectural character of the rest of the development.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the proposed preliminary plat subject to compliance with all administrative review comments.

Part B) Staff recommends approval of the proposed PUD Final Development Plan subject to the following conditions:

1. Compliance with all administrative review comments.

2. Use of swing doors for all ground floor entrance points. Slider style doors are prohibited.

3. Patio fencing for all ground floor units shall include a gate.

4. Provision of additional architectural interest for the portion of the east façade of the clubhouse that contains the entrance to the satisfaction of the Planning and Urban Design Administrator. This could include, but is not limited to, additional material variation, vertical emphasis and/or articulation.

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:
Emily Webb made a motion for:

Part A) **APPROVAL** of the proposed preliminary plat subject to compliance with all administrative review comments, and

Part B) **APPROVAL** of the proposed PUD Final Development Plan subject to the following conditions:

1. Compliance with all administrative review comments.
2. Use of swing doors for all ground floor entrance points. Slider style doors are prohibited.
3. Patio fencing for all ground floor units shall include a gate.
4. Provision of additional architectural interest for the portion of the east façade of the clubhouse that contains the entrance to the satisfaction of the Planning and Urban Design Administrator. This could include, but is not limited to, additional material variation, vertical emphasis and/or articulation.

**THE VOTE:** 13-0

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**Item 5**

Request from Signature Flight Support represented by Sean Kuhl (lessee), for review and approval of a Public Hearing Site Plan “Signature (DSM) New Terminal and Hangar” for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4.B and 135-9.3.1.B, for property located at 6213 SW 28th Street, to allow a Civic Building occupied by an “Airport” use for development of a private terminal, hangar, and office. The subject property is owned by City of Des Moines.

(10-2021-7.64)

A) Allow primary frontage ground story height of 51 feet which is 27 feet greater than the maximum allowed primary frontage ground story height of 24 feet per Section 135-2.10.3(B)(12).

B) Allow 0% transparency at the hangar building where a minimum 12% transparency on the street façade is required per Section 135-2.10.3(D)(17).

C) Allow surface on-site parking in the front yard where surface parking is only allowed in the rear yard or limited interior side yard per Section 135-2.10.3(A)(8).

**STAFF REPORT TO THE PLANNING COMMISSION**
I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow construction of a new private service airplane hanger with passenger terminal and offices.

2. Size of Site: 107,873 square feet (2.5 acres).


4. Existing Land Use (site): The subject property is within the Des Moines International Airport, which contains a range of uses customarily incidental to operations of a full-service airport.

5. Adjacent Land Use and Zoning:
   - North – “P2” Uses are airport apron, taxiway, and runway.
   - South – “P2”, Uses are private hangers and other airport operations buildings.
   - East – “P2”, Uses are airport apron, runway and private hangers.
   - West – “P2”, Uses are private hangers, runway and taxi way.

6. General Neighborhood/Area Land Uses: The subject property is within the Des Moines International Airport located generally at the junction of Fleur Drive and Army Post Road.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Southwestern Hills Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on March 12, 2021 and the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 22, 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 Southwestern Hills Neighborhood notices were sent to George Davis, 3124 SW 29th St, Des Moines, IA 50321.

8. Relevant Zoning History: The subject property was zoned to “P2” Mixed Use District with the citywide rezoning effective in December 15, 2019.


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. Design Alternatives Requested: The following Type 2 Design Alternatives are requested:

A) Allow primary frontage ground story height of 51 feet which is 27 feet greater than the maximum allowed primary frontage ground story height of 24 feet per Section 135-2.10.3(B)(12). *The height of the main portion of the hanger building is based on the functional purpose of the open bay for aircraft. The height is dictated by the size of the aircraft and the doors necessary to allow entry into the hanger.*

B) Allow 0% transparency at the hangar building where a minimum 12% transparency on the street façade is required per Section 135-2.10.3(D)(17). *While there is transparency proposed for the terminal and office portions of the building most likely to be occupied by hanger personnel and passengers, the main functional portion of the hanger is designed without transparency to protect the interior from light and minimize external light reflection near the apron and runway areas.*

C) Allow surface on-site parking in the front yard where surface parking is only allowed in the rear yard or limited interior side yard per Section 135-2.10.3(A)(8). The functional or rear side of the hanger is oriented toward the apron and runways. The most functional location of the parking for passengers and personnel is between the street and the public side of the building. Parking located in the side and rear areas would conflict with aircraft traffic.

Please note that the following Type 1 Design Alternatives were approved by staff as part of the administrative review:

A) Allow building materials contrary to allowances per Section 135-4.2 were allowed by Type 1 Design Alternatives per Section 135-4.1.3(B) –

1) Composite metal panel is shown on the street facing side of the terminal but only allowed as a minor material on non-street facades.

2) Metal wall panel – Insulated metal wall panel is shown on 100% of the office and a metal wall panel system is shown on 100% of the hangar where metal wall panels are a minor material and the maximum allowed is 40% on any façade.

B) Allow Impervious area in excess of maximum 70% per Section 135-2.10.3(A)(7) is allowed. A 10% amount in excess or 77% impervious was allowed by Type 1 Design Alternative per Section 135-9.2.3(B)(1).

C) Waiver of the required fence within the fence frontage buffer per Section 135-7.7.2 was allowed by Type 1 Design Alternative per Section 135-9.2.3(B)(12).

2. Staff Rationale: Staff is supportive of the granting of all three requested Design Alternatives in parts A, B and C. This is based on the determination that they are
all appropriate given the functional nature of the design and purpose of the proposed building for an aircraft hangar and passenger terminal. While the Civic Building Type is the most flexible standards for public purpose buildings, they do not contemplate some of the unique elements of buildings that are intended for aviation operations.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Design Alternatives in Parts A, B and C.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for:

Part A) **APPROVAL** of a Type 2 Design Alternatives allowing primary frontage ground story height of 51 feet, which is 27 feet greater than the maximum allowed primary frontage ground story height of 24 feet.

Part B) **APPROVAL** of a Type 2 Design Alternatives allowing a 0% transparency at the hangar building where a minimum 12% transparency on the street façade is required.

Part C) **APPROVAL** of a Type 2 Design Alternatives allowing surface parking in the front yard where surface parking is only allowed in the rear yard or limited interior side yard.

THE VOTE: 13-0

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Item 6

Request from Lucky Gal I, Inc. (owner) represented by Chris Pruisner (officer) for review and approval of a Public Hearing Site Plan “Lucky Gal Tattoo” for a Type 2 Design Alternative in accordance with City Code Sections 135-9.2.4(B) and 135 9.3.1(B), for property at 3104 SW 9th Street, to allow renovation of the existing Storefront Building for a tattoo parlor, arcade, and candy store with waiver of undergrounding the existing overhead utility lines required per Section 135-9.2.1(E). (10-2021-7.26)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing improvements that trigger full compliance with current site standards. As part of the project they are asking for waiver of the underground utility requirement. 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 this report.

2. Size of Site: 15,914 square feet (0.37 acres).

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

4. Existing Land Use (site): The subject property contains a 1-story commercial building containing approximately 4,384 square feet of space and a parking lot.

5. Adjacent Land Use and Zoning:
   
   North - “RX1”, Uses include Pleasant View Drive and an unoccupied 1-story commercial building.
   
   South - “P-2”; Use is the Park Avenue Presbyterian Church.
   
   East - “RX1”; Uses are Southwest 9th Street, a multiple-family residential dwelling, and Park Avenue Elementary School.
   
   West - “RX1”; Use is a parking lot for the Park Avenue Presbyterian Church.

6. General Neighborhood/Area Land Uses: The subject property is located along the west side of the Southwest 9th Street corridor, in an area that includes a mix of commercial, educational, and religious assembly uses. The subject property is separated from a low-density residential neighborhood to the west by Park Avenue Presbyterian Church’s parking lot.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Gray’s Lake Neighborhood and within 250 feet of the Indianola Hills Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on March 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 22, 2021 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. A Final Agenda was mailed to recognized neighborhoods on March 26, 2021.

The Gray’s Lake Neighborhood mailings were sent to Stefanie Running, 1334 Loomis Avenue, Des Moines, IA 50315. The Indianola Hills Neighborhood mailings were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.
8. **Relevant Zoning History:** On February 10, 2021, the City Council adopted Ordinance 15,864 to rezone the property from “RX1” District to “MX1” District. The rezoning is subject to the following conditions:

- Use of the Property shall be limited to any use as permitted in the “RX1” District or a Sports and Recreation, Private/Participant, indoor use.
- Any sale or service of alcoholic liquor, wine, and/or beer on the Property shall be prohibited.

9. **PlanDSM Land Use Plan Designation:** Community Mixed Use, within a Neighborhood Node centered at the intersection of Southwest 9th Street and Park Avenue.

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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

- The city’s plans for future construction and provision for public facilities and services; and

- The facilities and services already available to the area which will be affected by the proposed site use;
• Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Overhead Utility and Service Line Burial Requirement: Section 135-9.2.1.E of the Planning and Design Ordinance requires that all electrical, telephone, and cable television transmission systems be placed underground whenever reasonably practical.

There is an aerial service connection from existing overhead lines along the east side of Southwest 9th Street to the east (front) façade of the building on the subject property. MidAmerican Energy Company has provided an estimate that indicates it would cost $5,846.37 to relocate this overhead line to underground. The applicant has indicated that they would incur an additional $7,732.69 in costs to underground the private service line at the front of the building, bringing the total cost of utility burial to $13,579.06.

The applicant has indicated that the total value of their site improvements is $15,000. They have indicated that the expenses ($13,579.06) related to the burial of utilities would make their project unfeasible. Using these figures provided by the applicant, the proposed $13,579.06 expense represents 90.5% the project’s $15,000 budget.

Staff notes that there is a significant amount of overhead utilities in the area, including those along the east side of Southwest 9th Street.

In this instance, given the high cost of the utility burial compared to the overall project cost (90.5%), staff recommends that the Commission find that it would not be reasonably practicable to require that all electrical, telephone, and cable television transmission systems be placed underground in accordance with Section 135-9.2.1.E of the Planning and Design Ordinance. Also, given the limited visual impact of the proposed utility burial due to the existence of significant overhead utilities in the area,
granting this design alternative 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.

III. STAFF RECOMMENDATION

Staff recommends that the Commission find that it would not be reasonably practicable to require that all electrical, telephone, and cable television transmission systems be placed underground in accordance with Section 135-9.2.1.E of the Planning and Design Ordinance.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion that the Commission find that it would not be reasonably practicable to require that all electrical, telephone, and cable television transmission systems be placed underground in accordance with Section 135-9.2.1.E of the Planning and Design Ordinance.

THE VOTE: 13-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 7

Request from Justin Raymond (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 and denied Type 1 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 4215 Southeast 17th Street, to allow installation and construction of a manufactured home in accordance with House B Building Type requirements. (BLD2020-03177)

A) Allow 5 feet less than the minimum 35-foot building width per Section 135-2.14.3(A)(7). (withdrawn by the applicant)

B) Allow 0 square feet (100%) less than the required 32 square feet (12%) transparency requirement for street facing facade per Section 135-2.14.3(D)(18). (withdrawn by the applicant)

C) Allow the principal entrance on the south side facade where required on the front street facade per Section 135-2.14.3(D)(19). (withdrawn by the applicant)
D) Waiver of the required porch or stoop entrance configuration per Section 135-2.14.3(D)(20).

E) Waiver of the requirement for provision of a minimum 288-square foot garage per Section 135-2.14.3(E)(3).

F) Allow 100% Vinyl siding as a major façade material per Table 135-4.1-2 with no added architectural design elements per Section 135-4.3.11.

G) Allow 0 street trees less than the calculated 2 required street trees per Section 135-7.5.3(C)(1). (withdrawn by the applicant)

H) Waiver of the required public sidewalk installation per Section 135-8.5.2.

I) Allow a minimum 3.5-foot side setback from the south property line less than the minimum required 7-foot side yard setback per Section 135-2.14.3(A)(5). (added by the applicant)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a one-household, dwelling on the property in a manner that will require multiple Type 1 and Type 2 Design Alternatives. The property is zone N3a, which requires a House Type B design. Manufactured homes are subject to the same planning and design standards as stick built homes. 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: 75 feet of frontage on an irregularly shaped lot (22,310 square feet).

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

4. Existing Land Use (site): The property is currently a vacant lot with an existing garage that is listed to be in below normal condition.

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 located in the Easter Lake Area Neighborhood and is north of East McKinley Avenue and west of Indianola Avenue. This is a residential area that consists primarily of one-household dwellings with a mix of attached and detached garages.

7. Applicable Recognized Neighborhood(s): The subject property is in the Easter Lake Area Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of
the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 22, 2021 (10 days prior to the public 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 designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Easter Lake Area Neighborhood mailings were sent to Jim Bollard, 4007 SE 26th Street, 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.E.3 states that a minimum 288 square feet garage is required for each House B building type and each unit of a 2-unit House B. A Type 1 design alternative for reduction in the size of garage or waiver of garage requirement may be approved subject to provision, in lieu of the required garage, a minimum 120 square foot storage shed constructed with a foundation or concrete slab and with building materials matching the principal household dwelling on the property, and subject to determination by the community development director that the character of the surrounding area allows for a reduction in size or waiver of the required garage based on one the following:

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

b. 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 by the community development director will be based upon the assumption that such lots, as if developed, contain the required minimum 288 square foot garages for each House B building, and each unit of a 2-unit House B, thereon.

Based upon these criteria, the Community Development Director denied the applicant’s request for a Type 1 Design Alternative.

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
• 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. Accessory Structures: Section 135-2.22.C provides the definition and standards for outbuildings and detached garages.
C. **Outbuilding and Detached Garage.** A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds

1. **Side and Rear Setback.** Minimum side and rear setback of an outbuilding shall be five feet.

2. **Alley.** Where a garage is accessed off an alley with pavement narrower than 20 feet, the garage shall be set back from the alley lot line to allow 24 feet from the opposite edge of alley pavement to the garage door.

3. **Height.** The maximum height of the outbuilding may be no taller than one-half story less than the principal building; however, in the event that the principal building is one story in height, the outbuilding may not exceed the height of the principal building.

4. **Residential Districts.** The lot coverage of all accessory structures, including an outbuilding, shall not exceed 576 square feet or 25% of the rear yard, whichever is greater, on a lot zoned Neighborhood (N) or Neighborhood Mix (NX).

5. **Character.** The outbuilding shall be compatible in color and character with the primary structure on the lot.

6. **Accessory Household Unit.** If a permitted AHU is contained within an outbuilding, then the requirements of subsections 4, 5, and 8 of section 135-2.22.2.F of this article shall also apply.

There are 29 parcels located within 250 feet of the subject property. Staff found that **20 (69%)** of these parcels met the classification of having a garage structure or are vacant and assumed to have a 288-square foot garage in the future pursuant to Section 135-2.14.3.E.3. In addition, the house to the west and the houses directly across the street have a garage meeting or exceeding the minimum code requirement. The purpose of this requirement in the Zoning Ordinance is to ensure all properties provide suitable storage of vehicles, equipment, refuse and recycling disposal bins, etc.

The applicant has updated their proposal to include a 120-square foot shed in place of the required garage. The original proposal did not include a garage or shed and the overall project concept included many other deficiencies. Considering the significant changes the applicant has made to their proposal since the March 4 meeting and the character of the development founds on SE 17th Street, staff believes that a shed would be adequate in this case for providing suitable storage.

2. **Sidewalks:** Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.” Closing gaps within the City’s sidewalk network is a priority of MoveDSM, which is the City’s transportation plan. The City Council noted this as a priority at their April 26, 2019 City Council Planning Session.
At the March 4 meeting the Commission expressed a willingness to waive the sidewalk requirement.

3. **House Type B Design Standards:** Section 135-2.14.3 outlines House Type B regulations. These regulations apply to all residential dwellings, regardless if they are manufactured or stick built homes.

Section 135-4.3.11 defines the allowed major façade materials in Table 135-4.1-2. The applicant is proposing 100% vinyl siding with no added architectural design elements to offset the use of vinyl siding. Adding features such as a 60-square foot covered porch, stone veneer accents, and/or alternative siding patterns in the gables could make the project eligible for Type 1 Design Alternative consideration. The applicant has stated that altering the exterior materials and/or the roof line is not feasible for the scope of their project. Items such as decorative window shutters and a lantern style porch light would be provided on the front façade. A cross gable or roofed porch element have typically been required for this type of design alternative request. Staff believes that an element of this nature should be provided unless the Commission determines it is not reasonable to require it in this particular case.

Section 135-7.5.3.C.1 requires one street tree for every 30 feet of lot frontage. This lot has 75 feet of lot frontage, which would require two street trees. The applicant is proposing to plant one street tree and has requested Type 1 relief. In the Type 1 request the applicant states that the location of the proposed driveway, presence of a drainage ditch, and conflicts with a fire hydrant and overhead utility lines as rationale for the design alternative. Staff acknowledges these constraints and will grant the applicant’s request for a Type 1 design alternative. Therefore, it has been removed from the agenda.

Section 135-2.14.3(A)(5) requires a minimum 7-foot side yard setback. The applicant is requesting a Type 2 design alternative to allow a minimum 3.5-foot side setback from the south property line. This is necessary to accommodate the driveway on the north side of the house. The side yard setback on the north side of the house is proposed to be 15.5 feet. The driveway width is proposed to be 12 feet. Staff believes that this design alternative for the 3.5-foot setback is appropriate and will allow for the correct orientation of the house to face the street.

Section 135-2.14.3(D)(20) is in reference to required porch or stoop entrance configuration. The applicant has revised the building plans to include a 6-foot by 10-foot deck leading to the front door. The deck is not covered and therefore is not meeting the definition of a porch. Staff believe that the proposed deck leading to the front door is in character with the surrounding homes.

**III. STAFF RECOMMENDATION**

*Parts A, B & C have been removed from the agenda.*
Part D) Staff recommends approval of the requested Type 2 Design Alternative to allow waiver of the required porch or stoop entrance configuration with the condition that the applicant construct a minimum 60-square foot deck leading to the front door.

Part E) Staff recommends approval of the requested Type 2 Design Alternative to allow construction of a new one-household dwelling on the subject property without the required garage with the condition that a minimum 120-square foot storage shed is constructed on the subject property.

Part F) Staff recommends approval of the requested Type 1 Design Alternative to allow 100% vinyl siding as a major material subject to the provision of a cross gable, bumpout or roofed porch element unless the Commission determines that it is not reasonable to require it in this case.

*Part G has been removed from the agenda.*

Part H) Staff recommends approval of the requested Type 2 Design Alternative to waive the sidewalk requirement based on the Commission’s direction at the March 4, 2021 meeting.

Part I) Staff recommends approval of the 3.5-foot side yard setback on the south side of the house.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

Justin Raymond, 4235 SE 17th Street, stated he would ask the commission to approve staff recommendation as the project is now over budget and matches the character of the existing neighborhood.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Dory Briles asked staff to clarify if they are or are not recommending that a cross gable or bump out element be provided.

Jason Van Essen stated he wanted the commission to have the opportunity to weigh in on that condition. If the commission has no concerns, they could move staff recommendation while striking condition F.

Will Page stated Jason did a good job explaining the rational for waiving the vinyl requirement as it matches the character of the neighborhood and City staff is not worried about this setting a precedent for future projects.
Greg Jones stated he would like to commend Justin for adjusting his proposal and meeting the requirements of the City Code.

**COMMISSION ACTION:**

Will Page made a motion for:

- **Part D)** APPROVAL of the requested Type 2 Design Alternative to allow waiver of the required porch or stoop entrance configuration with the condition that the applicant construct a minimum 60-square foot deck leading to the front door.

- **Part E)** APPROVAL of the requested Type 2 Design Alternative to allow construction of a new one-household dwelling on the subject property without the required garage with the condition that a minimum 120-square foot storage shed is constructed on the subject property.

- **Part F)** APPROVAL of the requested Type 1 Design Alternative to allow 100% vinyl siding as a major material.

- **Part H)** APPROVAL of the requested Type 2 Design Alternative to waive the sidewalk requirement.

- **Part I)** APPROVAL of the 3.5-foot side yard setback on the south side of the house.

*(Parts A, B, C & G were withdrawn by the applicant.)*

**THE VOTE: 13-0**

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**Item 8**

Request from Corey and Kristen Schooley (owners) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 4841 Algonquin Road, to allow construction of a 626-square foot addition without a full basement to the east facade of the existing House A building type and a 161-square foot Outbuilding (pool house) and in-ground pool within the north rear yard, all in an “N1b” Neighborhood District. *(BLD2021-00099)*

- **A)** Allow an addition within 10.46 feet of the east property line for a total side yard setback of 10.46 feet (53.52% less) where a minimum 22.5-foot setback is required by Section 135-10.2.2(C).

- **B)** Allow an addition to the existing house without a full depth basement where it is required per Section 135-2.13.3(E)(5).
C) Allow the Outbuilding (pool house) within 0 feet of the north property line where a minimum of 5-foot setback is required by Section 135-2.22.1(D)(3)(b) and Section 135-2.22.2(C)(1).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 626-square foot addition to the east façade of the existing building and a 161-square foot pool house and in-ground pool within the north rear yard. The addition is proposed with no basement. It would connect to the existing building and would be constructed with like materials and roof profile to match existing house.

2. Size of Site: 75-foot by 157-foot parcel (11,775 square feet).

3. Existing Zoning (site): “N1b” Neighborhood District.

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

5. Adjacent Land Use and Zoning:

   North – “N1b”; Uses are one-household dwellings.
   South – “N1b”; Uses are one-household dwellings.
   East – “N1b”; Uses are one-household dwellings.
   West – “P1”; Use is Waveland Golf Course.

6. General Neighborhood/Area Land Uses: The subject property is in a primarily residential area, located at the dead end of Algonquin Road and adjoins Waveland Golf Course. The area consists of one-household dwellings.

7. Applicable Recognized Neighborhood(s): The subject property is in the Waveland Park Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda for the March 18, 2021 meeting on February 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 8, 2021 (10 days prior to the March 18, 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. A Final Agenda for the March 18, 2021 meeting was mailed to all recognized neighborhoods on March 12, 2021. A Final Agenda for the April 1, 2021 meeting was mailed to all recognized neighborhoods on March 26, 2021.

   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 mailing. The Waveland Park Neighborhood Association mailings were sent to Anna Mason, 1434 44th Street, Des Moines, IA 50311.
8. Relevant Zoning History: None.


10. Applicable Regulations:
    Section 135-2.13.3.A.5 states that for House Type B the minimum side yard on one side shall be 10 feet with a total side yard of 25 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.

    Section 135-2.13.3.E.5 requires that all House Type A have a full basement.

    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 setback by 53.52% and 47.4% 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
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. A Type 1 Design Alternative was approved to decrease the minimum rear yard setback from 30 feet to 29.62 feet. This standard can be found in Section 135-2.13.3.A.6 of the Planning and Design Ordinance.

   B. A Type 1 Design Alternative was approved decreasing the minimum required story height from 9 feet to 8 feet, 1-1/8 inches to allow the project to match the existing building. This standard can be found in Section 135-2.13.3.B.14 of the Planning and Design Ordinance.

2. Staff Analysis: The proposed addition would be located on the east side of the existing dwelling and connect to it. While the proposed addition does bring the total side yard below 22.5 feet, it would still be 10.46 feet from the east lot line, which is greater than the 7.5 feet minimum interior side yard required by code. The reduction in the total side yard is created by the existing 0-foot setback from the west lot line, which adjoins Waveland Golf Course. This 0-foot setback is allowed through an existing easement with the City of Des Moines.
The proposed outbuilding (pool house) would be located on the north side of the existing building in the rear yard. It would be within 0 feet of the north lot line, while outbuildings are required to be at least 5 feet from lot line. The principal building on the lot north of subject property is suitably distanced from the lot line. An existing garage on the north property is located within 5 feet of the lot line and towards the east edge of the property.

The proposed addition would represent about 28% of the existing building area. The existing dwelling has a 1,716-square foot basement and a total living area of 2,812 square feet. This exceed the 1,600-square foot minimum living area requirement for a one-and-half-story House A building type.

Staff has reviewed the proposed addition relative to the character of the existing dwelling and the surrounding neighborhood area. 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.

While the reduction to the total setback would not create any detrimental impact on neighboring properties, the siting of the pool house on the north lot line with no rear setback would present challenges with maintenance. It would also bring the pool house much closer to an existing garage on the north property.

III. STAFF RECOMMENDATION

Parts A & B) Staff recommends approval of the requested Type 2 Design Alternatives.

Part C) Staff recommends denial of the requested Type 2 Design Alternative to allow the Outbuilding (pool house) within 0 of the north property line.

SUMMARY OF DISCUSSION

Anu Minhas presented staff report and recommendation.

Greg Wattier stated a concern he has is the pitch of the roof on the pool house causing water, snow and ice to dump on the adjacent property.

Anu Minhas stated she did have discussions with the applicant about addition of a gutter to the pool house so it keeps the water away from the neighbor’s property. She also had discussion with City’s Permit and Development staff and they found the 8-inch CMU firewall would adequately meet fire code requirements.

Greg Jones asked what amount of set-back is sufficient for City staff?

Anu Minhas stated the code requires a 5-foot setback from any accessory structure to the property line, which is what staff would recommend. City staff was going to approve a 2.5-foot setback on the March 18th meeting, but the applicant wanted to be propose a 0-foot set-back, which staff cannot support.
Jason Boggess stated they are trying to provide the Schooley family with everything they desire, while being conscious of the surrounding neighbors and city code. The proposed pool house will have the 8-inch CMU firewall and will also place a gutter on the back to direct water onto the Schooley’s property. Most of the water from the north and east does want to shed towards the west corner based on the shape of the land.

CHAIRPERSON OPENED THE PUBLIC HEARING

Corey Schooley, 4841 Algonquin Road, stated they originally showed a 2.5-foot setback, but wanted to propose 0 feet to make the pool house a little more functional while dealing with some challenge around the easement area. The pool house will follow the fence line, which is a few inches from the property line. They plan to build a fence to mitigate golf balls that tend to come into their yard, along with a future net between the house and pool house.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier stated the addition on the east has some merit but he is struggling with approving a 0-foot setback as he doesn’t see any hardship. Although the north property owner seems fine with it, these changes go with properties and not the people.

Greg Jones stated 5 feet is more than enough but 0 feet is not enough. He would be more comfortable with a number between 2.5 and 0.

Jann Freed stated she agreed with Greg Jones’s comments and would like to compromise with the property owner’s proposal.

Will Page stated he would propose a 2.5-foot setback, as the homeowner previously agreed to and that would align with the commissioner’s comments.

Dory Briles stated she would agree with the 2.5-foot setback as well.

COMMISSION ACTION:

Greg Wattier made a motion for:

Part A) APPROVAL of a Type 2 Design Alternative allowing an addition within 10.46 feet of the east property line for a total side yard setback of 10.46 feet (53.52% less) where a minimum 22.5-foot setback is required.

Part B) APPROVAL of a Type 2 Design Alternative allowing an addition to the existing house without a full depth basement where it is required.

Part C) APPROVAL of a Type 2 Design Alternative to allow the Outbuilding (pool house) within a minimum 2.5’ of the north property line where a minimum of 5-foot setback is required.

THE VOTE: 12-0-1 (Rocky Sposato abstained from the vote)
Item 9

Request from Fareway Stores, Inc (purchaser) represented by Matt Heath (officer) for the following regarding the property located at 2723 41st Place. The subject property is owned by Melvin and Connie Wood.

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 to revise the future land use classification from Low Density Residential within a Neighborhood Node to Community Mixed-Use within a Neighborhood Node.  (21-2021-4.08)

C) Rezone property from “N4” Neighborhood District to “MX3” Mixed Use District, to allow off-site parking and access to be developed in conjunction with a Limited Retail Sales use redevelopment of property at 2716 Beaver Avenue.  (ZON2021-00018)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to rezone additional land to incorporate with previously rezoned property for redevelopment for a Limited Retail Sales use. The proposed development would include a new 7,759-square foot retail store with a specialty meat counter and other neighborhood grocery needs. The proposed business model includes sale of packaged liquor, wine and beer. The additional land requested currently for rezoning would accommodate an ingress/egress drive from 41st Place that would facilitate traffic trips coming east bound from Urbandale Avenue and leaving westbound on Urbandale Avenue.

2. Size of Site: The area of the proposed rezoning is 5,850 square feet, which would increase the total area for the retail site to 24,209 square feet (0.556 acres).

3. Existing Zoning (site): “N4” Neighborhood District.

4. Existing Land Use (site): One Household Living dwelling.

5. Adjacent Land Use and Zoning:
North – “MX1”; Uses are Limited Retail Sales and a Restaurant.
South – “N4”; Uses are One Household Living dwellings.
East – “MX3”; Use is vacant building formerly occupied with a Financial Service use.
West – “N4; Uses are One Household Living dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located at the periphery of a commercial node located at the intersection of Beaver Avenue and Urbandale Avenue.

7. Applicable Recognized Neighborhood(s): The subject property is in the Beaverdale Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed March 12, 2021 (20 days prior to the hearing) and March 22, 2021 (10 days prior to the hearing) to the Beaverdale Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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

The applicant will be available to provide a summary of their required neighborhood outreach at the public hearing.

8. Relevant Zoning History: The subject property was zoned to “N4” Neighborhood District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.

On November 22, 2020 by Ordinance No. 15,946, the City Council rezoned the property to the east of the subject property from “MX1” Mixed Use District to Limited “MX3” Mixed Use District to accommodate the proposed Limited Retail Sales use and allow the owner to have the ability to request a Conditional Use approval for package sales and service of liquor, wine and beer. Subject to the following conditions:

1) The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2) Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.
On January 27, 2021 by Docket No. ZON2020-00168 the Zoning Board of Adjustment approved a Conditional Use for property located at 2716 Beaver Avenue to allow a Limited Retail Sales use with the sale of packaged liquor, wine and beer for off-premises consumption.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential within a Neighborhood Node.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated “Low Density Residential” within a Neighborhood Node. 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 requested amendment would be to the “Community Mixed Use” within a Neighborhood Node.

   **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 these designations, the proposed “MX3” Mixed Use District zoning would be found not in conformance with the Comprehensive Plan unless the requested amendment were to be approved. Staff believes the proposed rezoning is appropriate given the incorporation of the land to over proposed redevelopment site.

2. **Traffic:** The applicant’s rezoning request is motivated by the need for an alternate solution to facilitate trips to and from the site that would come from and return to the area west on Urbandale Avenue. The developer initially proposed a median cut in
Urbandale Avenue to align with a proposed driveway onto Urbandale Avenue from the northwest corner of the existing “MX3” zoned property. Based on the Traffic Study report for the project, Traffic Engineering staff were not supportive of allowing the median cut due to safety concerns.

Therefore, the alternate solution with the proposed rezoning would be to allow traffic from the site onto 41st Place to move north at the intersection with Urbandale Avenue where there is an existing median cut allowing traffic to turn westbound onto Urbandale Avenue from 41st Place. Traffic Engineering staff were also not favorable to the alternative of closing the median opening in Urbandale Avenue at 41st Place in order to allow the proposed median cut coming from the subject site as that would restrict existing neighborhood traffic from moving onto Urbandale Avenue. The obvious concern of neighbors living in the immediate block on 41st Place, is that this proposal would put undue trips southbound onto 41st Place through the neighborhood. Additionally, the concern would be that traffic coming from the site would also restrict the neighbors traffic movement onto Urbandale Avenue.

Traffic Engineering staff have indicted that the added driveway off of 41st Place would not be a major concern because it is a residential street and the expectation on residential streets would be higher driveway density than a street like Urbandale Avenue. In practice, the driveway onto 41st Place would primarily serve trips exiting to head westbound on Urbandale Avenue, with the possibility of a few exiting to move south and west. Also, it is anticipated that the count for entering vehicles at this location would be low, with a majority of trips entering the site from Urbandale Avenue or Beaver Avenue.

3. Permit and Development Center Comments: Any redevelopment of the property for a Limited Retail Sales use must comply with all applicable Building Codes and Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance, with approval of a Site Plan and issuance of all necessary permits.

4. Staff Rationale: Staff believes that the proposed future land use designation amendment and rezoning are appropriate. The land necessary for a driving ingress/egress onto 41st Place is the safer solution to accommodate traffic movement onto westbound Urbandale Avenue with little anticipated negative impacts to the adjoining neighborhood to the west.

For consistency and ease of enforcement, Staff would recommend that the same conditions be added to the proposed “MX3” Mixed Use District that were approved on the balance of the proposed site with approved Limited “MX3” Mixed Use District.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential within a Neighborhood Node.
Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.

Part C) Staff recommends approval of rezoning the subject property from “N4” Neighborhood District to a Limited “MX3” Mixed Use District subject to the following conditions:

1) The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2) Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Koby Pritchard, 715 8th Street, Boone, IA, representing Fareway Stores, stated he would like to thank city staff and the Beaverdale Neighborhood Association for their cooperation as they navigate through this process. He, along with Tim West with Snyder and Associates, are available for any questions.

Greg Wattier asked how delivery trucks would navigate to and from the building.

Koby Pritchard stated the alley will accommodate commercial trucks and keep that type of traffic off the residential streets. There will not be full sized semis delivering to this store, they will be using a smaller delivery truck.

Greg Wattier asked if the commission were to memorialize no commercial traffic on 41st Place, would that be done now or during the site plan review?

Jason Van Essen stated he would recommend that it be a zoning condition.

CHAIRPERSON OPENED THE PUBLIC HEARING

David DeBord, 2700 41st Place, stated its interesting to him that the previous plans were to use the existing parking with some addition to the West and more in the existing bank lot. The newly proposed parking lot will increase traffic on 41st Place and when it comes to commercial vehicles, those drivers will take the shortest route home or to their next stop. The house they are buying is a 1938 Beaverdale Brick with the current owner living there since 1966. The old plan is the right plan for this neighborhood, not the new plan.
Liz Seiser, 4600 Crestmoor Drive, stated her objection is to the new access point onto 41st Place, which is a very small residential street. She was in support of the previous plan as there was minimal impact to the neighborhood. If there is going to be a meat market in this area, the access points should be limited to Urbandale Avenue and Beaver Avenue.

Brindusa Velica, 2721 41st Place, stated she shares the concerns of Liz and David. She is afraid there will be no remedy for their concerns once this site is developed and those concerns come to life.

Koby Pritchard stated they went through every other exercise possible before entertaining the idea of another property. As they were going through the site plan review process, parking stalls were starting to be eliminated. With reduced access and parking, they started to ask if it made sense to move forward. The next step was to incorporate that next piece, which would add more parking and access off 41st Place. They plan to buffer the immediate neighbors by adding extra trees, bushes or berms.

Tim West, 2727 SW Snyder Blvd, representing Snyder and Associates stated they are including a significant amount of landscaping and ornamental fencing along the street right-of-way to screen parking stalls from public view. They have also added 3 trees along the frontage area between the parking and street with other landscaping along the perimeter of the parking lot.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones stated this is a leap too far and was already iffy with the drive through on the previous plans. Fareway has enough drawl and doesn’t need access off 41st Place. Driving around the block is something people are used to when visiting the Beaverdale neighborhood.

Will Page stated when people visit Beaverdale, they know it is going to take some time to park and get back onto the street when leaving. He is concerned with the impact on 41st Place and the increase of speed throughout the neighborhood with this proposal.

Abby Chungath stated this is not conducive to the character of the neighborhood and not a commercial hub that needs to be expanding into a residential area.

Rocky Sposato stated the applicant and City Staff have worked hard to make this project work for everyone and would be in support of staff recommendation.

Greg Wattier offered an amendment to staff recommendation. 1) Commercial truck traffic is prohibited from using 41st Place to enter or exit the site. 2) Parking shall not extend further west than the west façade of the house on the adjoining lot to the south.

COMMISSION ACTION:
Rocky Sposato made a motion for Part A) the proposed rezoning to “MX3” Mixed Use District is not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential within a Neighborhood Node.

THE VOTE: 13-0

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.


Part C) Approval of rezoning the subject property from “N4” Neighborhood District to a Limited “MX3” Mixed Use District subject to the following conditions:

1) The only Permitted and Conditional Uses shall be sales of packaged alcoholic liquor subject to approval of a Conditional Use by Zoning Board of Adjustment and those Permitted and Conditional Uses in common with the “MX1” Mixed Use District and as limited in the “MX1” Mixed Use District.

2) Accessory structures shall be limited to Drive-Through Facility and those permitted in the “MX1” Mixed Use District per Table 135-2.22-1.

3) Commercial truck traffic is prohibited from using 41st Place to enter or exit the site.

4) Parking shall not extend further west than the west façade of the house on the adjoining lot to the south.

THE VOTE: 6-7 (Lisa Howard, Kayla Berkson, Jann Freed, Johnny Alcivar, Will Page, Abby Chungath and Greg Jones voted in opposition).

Jann Freed made a motion for DENIAL of Part B) the requested to amend PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node, and Part C) the request to rezone the subject property from “N4” Neighborhood District to a Limited “MX3” Mixed Use District.

THE VOTE: 11-2 (Greg Wattier and Rocky Sposato voted in opposition).

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Item 10

Request from Oscar and Enrique Zenteno (owners) for the following regarding the property located at 2354 East Grand 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 to revise the future land use classification from Neighborhood Mixed Use to Community Mixed Use. (21-2021-4.09)

C) Rezone property from “MX1” Mixed Use District to “MX3” Mixed Use District, to allow use of the site for Vehicle Maintenance/Repair, Minor. (ZON2021-00020)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking the rezoning in order to allow the ongoing operation of a legal non-conforming Minor Vehicle Maintenance/Repair use (d/b/a EZ Auto Service). The property was previously rezoned in 2016 under the retired Zoning Ordinance to a Limited “C-2” General Retail and Highway-Oriented in order to gain conformance. However, the property owners never complied with the conditions of that rezoning. They also did not take the required measures to get a submitted Site Plan approved and make necessary improvements to the site at that time. On December 15, 2019, the property was zoned to “MX1” Mixed Use District which does not allow the use.

2. Size of Site: 12 feet by 130 feet (15,600 square feet).

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

4. Existing Land Use (site): The property includes a one-story 2,434-square foot repair garage and paved aprons. The western portion of property is unimproved but has been used for vehicular circulation and storage.

5. Adjacent Land Use and Zoning:

   East - “N3c”; Use is a commercial repair shop building that was fire damaged in 2015 with said damage repaired in 2020.

   West - “N3c”; Uses are One Household Living dwellings.

   North - “N3c”; Uses are One Household Living dwellings.

   South - “N3c”; Uses are One Household Living dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located in an area that is developed primarily with One Household Living residential uses, with commercial structures scattered throughout.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairground Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on March 12, 2021 and by mailing of the Final Agenda on March 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed March 12, 2021 (20 days prior to the hearing) and March 22, 2021 (10 days prior to the hearing) to the Fairground Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fairground Neighborhood Association notices were mailed to Laura Mundy, PO Box 473, Pleasant Hill, IA 50327. The applicant was required to conduct a neighborhood outreach by written letter, with a summary to be available for the hearing.

The applicant can provide a summary of their required neighborhood outreach at the public hearing.

8. **Relevant Zoning History:** The property was rezoned by the City Council on October 23, 2016 by Ordinance No. 15,525 subject to the following conditions.

   (1) The Property shall be brought into full conformance within one year of the approval of the rezoning, and kept, in accordance with an approved Site Plan under requirements as applicable to “C-2” Districts, including landscaping and paving requirements.
   (2) Any buildings on the Property shall be brought into good repair within one year of the approval of the rezoning, and kept in good repair, all to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.
   (3) There shall not be storage on the Property of more than two (2) unlicensed or inoperable vehicles outside of a building.
   (4) No unlicensed or inoperable vehicles or vehicles awaiting repair associated with any business on the Property shall be parked or stored on the surrounding public street network.
   (5) Only the following uses as in “C-2” District shall be permitted on the Property:
      
       a) Automobile washing and detailing establishments.
       b) Carpenter and Cabinetmaking shops for retail custom work
       c) Garage for general motor vehicle repair, but not including body and fender work and overall painting and steam cleaning.
       d) Plumbing and Heating shops
       e) Printing and Lithographing shops; and
       f) Sheetmetal shops
(6) In addition, uses as in the “C-1” District shall be permitted, except the following uses shall be prohibited on the Property:

- Assembly uses
- Bakeries
- Boarding houses and rooming houses
- Colleges and universities
- Correctional placement residences
- Dance studios
- Delicatessens
- Department stores with more than 30,000 square feet of gross floor area
- Gas stations/convenience stores
- Multiple-family residential dwellings
- Nursing, convalescent, and retirement homes
- Radio stations
- Restaurants
- Shelters for the homeless; and
- Theaters

The Commission had recommended denial of the rezoning at their September 1, 2016 meeting. Also, at the time of the rezoning, the property was designated with a Neighborhood Mixed Use future land use as part of a concurrent amendment to the PlanDSM Creating Our Tomorrow Plan. On December 15, 2019, the property was rezoned to “MX1” Mixed Use District with the update of the citywide Zoning Map.

9. **PlanDSM Land Use Plan Designation:** Neighborhood Mixed Use.

10. **Applicable Regulations:** 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, and taking into consideration the criteria set forth in Chapter 18B 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 existing Neighborhood Mixed Use designation is described as follows:

   **NEIGHBORHOOD MIXED USE**
   Small-scale mixed-use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service-oriented development. Low-medium density residential may be included in mixed use development.
In order to find the proposed rezoning in conformance with PlanDSM, staff believes that the requested amendment to designate the future land use to Community Mixed Use would also be necessary. Community Mixed Use is described 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.

The property is surrounded in the neighborhood by remaining Low Density Residential designation. While there are other existing commercially zoned properties within a few blocks, the PlanDSM designates the predominance of this area for Low Density Residential. While the Plan contemplates adding additional neighborhood level commercial use or development on the subject property, Staff does not believe that either the proposed amendment to the PlanDSM future land use designation or the proposed rezoning to an “MX3” Mixed Use District are appropriate given the intent of PlanDSM.

2. **Additional Information:** The subject property has an enforcement history dating back to 2002 that includes violations, such as storage of inoperable vehicles, storage of junk/debris vehicle parking, and storage on unpaved surfaces or on adjoining Right-Of-Way. There have also been several impounds of vehicles from the property in that time. In 2015, the City initiated legal proceedings against the property. The enforcement process was suspended following the rezoning in 2016. However, the applicant did not perform on the zoning conditions approved in 2016. Legal action was again brought by Zoning Enforcement in 2020 and is pending. This has prompted the owners to pursue the rezoning process again.

Should the property be rezoned for allowance of the Minor Vehicle Maintenance/Repair use, the previous illegal expansion already triggered the subsequent need for Site Plan compliance for the entire site with the Permit and Development Center.

*If the Commission should decide to recommend approval of the requested comprehensive plan amendment and rezoning, Staff recommends that it be made subject to the following:*

1. **Any Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to “MX3” Districts and Workshop/Warehouse Building Type, including landscaping and paving requirements, within one year of the approval of the rezoning.**
2. Any buildings on site shall be kept in good repair to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.

3. There shall not be storage of more than two (2) unlicensed or inoperable vehicles outside of a building.

4. No unlicensed or inoperable vehicles or vehicles awaiting repair associated with any business on the property shall be parked or stored on the surrounding public street network.

The only use permitted in the proposed “MX3” Mixed Use District should be the Minor Vehicle Maintenance/Repair use and any use permitted in common with the current “MX1” Mixed Use District.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning be found in not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.

Part B) Staff recommends denial of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use.

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

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Todd Von Stein stated the applicants are currently traveling and were not able to attend tonight. If the commission needs to hear from them, they are willing to continue the item. However, they are going to follow through with the direction from City Staff. They’ve had nothing but support from the surrounding neighbors and have relocated their access point to allow an adjoining neighbor access to their camper.

CHAIRPERSON OPENED THE PUBLIC HEARING

Lucinda Maxson, 2332 East Grand Avenue, stated Oscar keeps his place clean and there are houses around this property that are in terrible shape. It is nice to have this type of business close by and she is in full support of their proposal.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Carolyn Jenison asked what will happen to this property if the commission votes in opposition?

Erik Lundy stated if City Council were to deny the rezoning, they would have to seek a use variance from the Zoning Board of Adjustment for this use to be allowed.
Jason Van Essen stated staff isn’t sure a land use amendment makes sense in this area. In 2016, the commission did recommend denial but a rezoning was approved by the council with conditions that included bring the site into compliance within a year. If the applicant wants to move forward and make site improvements, a use variance makes more sense.

**COMMISSION ACTION:**

Jann Freed made a motion for Part A) the proposed rezoning is not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use, Part B) DENIAL of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use, and Part C) DENIAL of rezoning the property to “MX3” Mixed Use District.

**THE VOTE:** 9-4 (Carolyn Jenison, Abby Chungath, Rocky Sposato and Johnny Alcivar voted in opposition).

**Item 11**

Request from Hubbell Realty Company (owner) represented by Steve Mosely (officer) for review and approval of a 10th Amendment to the Riverwoods Legacy PUD Conceptual Plan, for property in the vicinity of Riverwoods Road and River Ridge Avenue, to revise areas F, G, and H by eliminating the extension of River Ridge Road and reducing the length of the Grand River Drive cul-de-sac and increasing the open space/conservation area. Also, to add the allowance for 50-foot lot width minimums and additional house typical designs. (ZON2021-00028)

**STAFF REPORT TO THE PLANNING COMMISSION**

1. **GENERAL INFORMATION**

   1. **Purpose of Request:** The proposed amendment to the “PUD” Conceptual Plan would revise the configuration of the one-household residential lots in “Area F” and would replace “Area G” and “Area H” with an open space/conservation area. It would also eliminate the extension of River Ridge Road to East Park Avenue and reduce the length of the Grand River Drive cul-de-sac.

   2. **Size of Site:** The area of the entire Riverwoods “PUD” District is approximately 240 acres.

   3. **Existing Zoning (site):** Riverwoods “PUD” Planned Unit Development District.
4. **Existing Land Use (site):** The portion of the Riverwood “PUD” District that would be impacted by the proposed amendment is generally undeveloped and contains a vital segment of a recreational trail known as the Carl Voss Trail.

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

- **North** – “F”, Uses are Harford Avenue, Cownie Soccer Complex, and floodplain.
- **South** – “N2b” & “NX2”, Uses are one-household dwellings, multiple-household dwellings, and vacant land.
- **East** – “F”, Uses are Harford Avenue, Cownie Soccer Complex, and floodplain.
- **West** – N2b”, “NX2”, & “P1”, Uses are one-household dwellings, multiple-household dwellings, and Cownie Baseball Complex.

6. **General Neighborhood/Area Land Uses:** The area consists of a mix of one-household dwellings, multiple-household dwellings, and park/recreational uses. A significant portion of the Riverwoods “PUD” District is a heavily wooded parcel owned by the City of Des Moines.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Riverwoods Neighborhood. The neighborhood association was notified of the Commission meeting by mailing of the Preliminary Agenda on March 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 12, 2021 (20 days prior to the public hearing) and on March 22, 2021 (20 days prior to the public hearing) to the Riverwoods Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property within the PUD and within 250 of the PUD boundary. A final agenda was mailed on March 26, 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 Riverwoods Neighborhood notices were mailed to Denise Benda, 2230 East Caulder Court, Des Moines, IA 50320.

   The applicant is required to conduct neighborhood outreach as part of the PUD Conceptual Plan amendment process. A letter was mailed on March 8, 2021. The applicant can provide a summary of the neighborhood meeting comments at the Plan and Zoning Commission hearing upon request.

8. **Relevant Zoning History:** The property was rezoned to “PUD” Planned Unit Development District on April 25, 1994 by Ordinance 13,027. Since that time, the Riverwoods “PUD” Conceptual Plan has been amended nine (9) times.

9. **PlanDSM Future Land Use Plan Designation:** Low Density Residential and Park/Open Space.
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 Features**: A significant portion of the subject property is heavily wooded. Staff recommends provision of a note that states development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

   The proposed “PUD” Conceptual Plan demonstrates that excess land at the periphery of the proposed lots for one-household development would be contained in an outlot that could potentially be dedicated to the City as parkland. Staff recommends provision of a note to state that any and all portions of this area that the City is not willing to accept ownership for shall be designated as common areas shared by the owners of all the residential units. Common areas within a horizontal property regime are not separately taxed. In a horizontal property regime, the value of the common areas is allocated among the residential units.

2. **Drainage**: The proposed “PUD” Conceptual Plan demonstrates a stormwater detention basin within an outlot at the eastern periphery of the site. The City will require the entire future plat to be located within a horizontal property regime, with the detention basin designated as common area shared by the owners of all the residential units. Common areas within a horizontal property regime are not separately taxed. In a horizontal property regime, the value of the common areas is allocated among the residential units.

   Given the proximity of the proposed stormwater basin to the existing Carl Voss Recreation Trail, staff recommends provision of a note that states any stormwater basin shall be designed to the satisfaction of the both the City’s Engineering Department and the City’s Park & Recreation Department to ensure that it is designed in a manner that prevents future erosion issues that could potentially impact the recreational trail.

   The “PUD” Conceptual Plan must also include a note that states that a soils report and stormwater runoff control plan per City Code Section 106-136 is required and that all grading is subject to an approved grading permit and soil erosion control plan.
3. **Traffic/Street System:** The proposed amendment to the “PUD” Conceptual Plan would revise the configuration of the one-household residential lots in “Area F” and would replace “Area G” and “Area H” with an open space/conservation area. The areas identified as “Area G” and “Area H” are within a parcel that is currently owned by the City of Des Moines. The proposed amendment would also eliminate the extension of River Ridge Road to East Park Avenue and reduce the length of the Grand River Drive cul-de-sac. Staff believes that these revisions are appropriate and would preserve a significant area of existing mature tree canopy. Planning staff also believes that the existing Riverwoods Avenue can accommodate the north/south traffic through the existing “Riverwoods” development to East Park Avenue.

4. **Recreational Trail:** There is a 10-foot wide recreational trail (known as the Carl Voss Trail) that passes through the eastern portion of the “PUD” District, as well as a trail spur that provides access to the trail from River Ridge Road. Portions of this existing trail are within temporary easements that are conditional upon permanent easements being provided at the time the area develops. Therefore, staff recommends provision of a note stating that permanent trail easements shall be provided for the Carl Voss Trail and for the trail spur providing access to the trail from River Ridge Road.

Since the Carl Voss Trail is a vital component of the City’s trail network, staff recommends provision of a note stating the primary section of the Carl Voss Trail passing through the Riverwoods PUD shall not be altered by the amendment and shall not be closed at any time as a result of construction or development in the vicinity.

Since the proposed River Ridge Road cul-de-sac would impact the trail spur that provides access to the Carl Voss Trail from River Ridge Road, staff recommends provision of a note stating that the reconfigured trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac shall be designed and constructed to the City’s standards as reviewed and approved by the City’s Park & Recreation Department Director.

Staff recommends provision of a note stating that the developer shall be responsible for all construction and costs associated with removing and reconstructing the trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac, and that any construction shall be to the City’s standards for trail construction to the satisfaction of the City’s Park & Recreation Department Director. In order to minimize temporary disruptions in access to the Carl Voss Trail during construction, staff recommends provision of a note stating that the developer shall provide a temporary paved trail from the Carl Voss Trail to Riverwoods Avenue at all times during construction upon the adjoining site to the satisfaction of the City’s Park & Recreation Department Director. Finally, staff recommends provision of an 8-foot wide sidewalk along one side of the River Ridge Road cul-de-sac to connect Riverwoods Avenue to the trail spur.
5. **Urban Design**: The proposed “PUD” Conceptual Plan would essentially allow for a total of 22 lots for one-household development. The Conceptual Plan provides three (3) examples of front facades of homes that would be allowed. Staff recommends elimination of the middle plan, which shows a house with an attached garage located entirely in front of the habitable portion of the house. Staff also recommends that a note be added to state these shall be in addition to the home designs allowed with the approved “PUD” Conceptual Plan. Finally, staff recommends the series of notes lists as “Condition 14” below, to ensure appropriate development.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the 10th Amendment to the Riverwoods Legacy PUD Conceptual Plan, subject to the following modification:

1. Provision of a note that states development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

2. Provision of a note to state that any and all portions of this area designated as “Parkland” that the City is not willing to accept ownership for, shall be designated as common areas shared by the owners of all the residential units. Common areas within a horizontal property regime are not separately taxed. In a horizontal property regime, the value of the common areas is allocated among the residential units.

3. Provision of a note that states the City will require the future plat to be located within a horizontal property regime, with the detention basins and open space areas designated as common areas shared by the owners of all the residential units. Common areas within a horizontal property regime are not separately taxed. In a horizontal property regime, the value of the common areas is allocated among the residential units.

4. Provision of a note that states any stormwater basin shall be designed to the satisfaction of the both the City’s Engineering Department Director and the City’s Park & Recreation Department Director to ensure that it is designed in a manner that prevents future erosion issues that could potentially impact the recreational trail.

5. Provision of a note that states that a soils report and stormwater runoff control plan per City Code Section 106-136 is required and that all grading is subject to an approved grading permit and soil erosion control plan.

6. Provision of a state note stating that permanent trail easements shall be provided for the Carl Voss Trail and for the trail spur providing access to the Carl Voss Trail from River Ridge Road.

7. Provision of a note stating the primary section of the Carl Voss Trail passing through the Riverwoods PUD shall not be altered by the amendment and shall
not be closed at any time as a result of construction or development in the vicinity.

8. Provision of a note stating that the reconfigured trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac shall be designed and constructed to the City’s standards as reviewed and approved by the City’s Park & Recreation Department Director.

9. Provision of a note stating that the developer shall be responsible for all construction and costs associated with removing and reconstructing the trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac, and that any construction shall be to the City’s standards for trail construction to the satisfaction of the City’s Park & Recreation Department Director.

10. Provision of a note stating that the developer shall provide a temporary paved trail from the Carl Voss Trail to Riverwoods Avenue at all times during construction upon the adjoining site to the satisfaction of the City’s Park & Recreation Department Director.

11. Provision of an 8-foot wide sidewalk along one side of the River Ridge Road cul-de-sac to connect Riverwoods Avenue to the trail spur.

12. Removal of the middle house design on Sheet 3 of the proposed 10th Amendment, and provision of note stating that, in addition to the two (2) house designs remaining on Sheet 3 of this amendment, the home designs allowed with the approved “PUD” Conceptual Plan shall also be permitted.

13. Provision of the following notes on the “PUD” Conceptual Plan:
   a) No same house architectural elevation shall be built on adjacent lots.
   b) Any house shall have a minimum two-car attached garage.
   c) The front façade of any house shall contain one of the following:
      i. A front porch of not less than 60 square feet; or
      ii. Stone or brick masonry siding covering at least 1/3 of the facade.
   d) All windows and doors shall have trim that is no less than 4 nominal inches in width.
   e) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
   f) Any 1-story house with or without a full basement shall be constructed with a minimum of 1,200 square feet.
   g) Any 2-story house with a full basement shall be constructed with a minimum of 1,350 square feet of above-grade finished floor area. Any 2-story house without a full basement shall be constructed with a minimum of 1,530 square feet of above-grade finished floor area.
   h) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
   i) Any chain link fence shall have black vinyl cladding.
SUMMARY OF DISCUSSION

Dory Briles stated the applicant for item #11 has requested a continuance to the April 15, 2021 Plan and Zoning Commission meeting.

COMMISSION ACTION:

Jann Freed made a motion to continue item #11 to the April 15, 2021 Plan and Zoning Commission meeting.

THE VOTE: 13-0

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Item 12

Request from Menard, Inc. (owner) represented by Theron Berg (officer) for the following regarding the property located at 5907 Southeast 8th Street and 801 Hart 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 to revise the future land use classification from Community Mixed Use within a Community Node to Low Density Residential within a Community Node. (21-2021-4.10)

C) Rezone property from “CX-V” Mixed Use District to “N3a” Neighborhood District, to allow retention of two One Household Living residences which would are no longer proposed for redevelopment in conjunction with the Large Format Retail Sales use adjacent to the east. (ZON2021-00030)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The requested rezoning would allow retention of two (2) houses that were recently rezoned to “CX-V” District as part of a rezoning to allow an expansion of the Menard’s store. The expansion would consist of a new three-lane lumberyard gate, a new 30,855-square foot accessory building, the addition of a third loading dock and enclosure of the rear overhang, and a partial enclosure of the garden center.

2. Size of Site: Approximately 20.8 acres.

4. **Existing Land Use (site):** The property contains a Menard’s home improvement/retail store and four (4) one-household dwellings.

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

   North – “N3a”, Uses are one-household residential dwellings.

   South - “RX1”, Uses are multi-household residential dwellings.

   East – “MX3-V”, Uses are restaurant, retail, and bowling alley uses along the Southeast 14th Street major commercial corridor.

   West – “N3a”, Uses are one-household residential dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is generally located along the Southeast 14th Street major commercial corridor in an area that transitions from the Menard’s retail business to a low-density residential area to the north and west. It also contains four (4) one-household dwellings along Southeast 8th Street and/or Hart Street.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the South Park Neighborhood and within 250 feet of the Easter Lake Area Neighborhood Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on March 12, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on March 12, 2021 (20 days prior to the hearing) and March 22, 2021 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on March 26, 2021.

   All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The South Park Neighborhood mailings were sent to Jan Goode, 4501 Southeast 6th Street, Des Moines, IA 50315, and the Easter Lake Area Neighborhood mailings were sent to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

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

8. **Relevant Zoning History:** On October 5, 2020, by Ordinance 14,929, the City Council rezoned the existing Menard’s site and four (4) one-household properties to Limited “CX-V” District, subject to the following conditions:
1. The development shall be carried out in accordance with the Large-scale development plan presented to the Plan and Zoning Commission;
2. That no outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing;
3. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures;
4. Any use of the Property for a bar or a liquor store shall be prohibited;
5. Any commercial use of the Property shall be in conformance with an approved site plan that demonstrates that the entire site is in conformance with the current landscaping standards contained in City Code Chapter 135. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.)
6. Any commercial expansion on the Property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements;
7. All necessary permits shall be obtained for the construction of any building or wall upon the Property;
8. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the City's Planning Administrator, certifying that the Property has been improved in substantial conformance with the approved site plan.

9. **PlanDSM Future Land Use Plan Designation:** Community Mixed Use within a Regional Node.

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

### III. STAFF RECOMMENDATION

Staff recommends that the Commission continue the public hearing to the April 15, 2021 meeting of the Plan & Zoning Commission.

### SUMMARY OF DISCUSSION

Dory Briles stated the applicant for item #12 has requested a continuance to the May 6, 2021 Plan and Zoning Commission meeting.

### COMMISSION ACTION:

Abby Chungath made a motion to continue item #12 to the May 6, 2021 Plan and Zoning Commission meeting.
THE VOTE: 13-0

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Item 13

Request from TK Development, LLC (owner) represented by Dan Kruse (officer) for review and approval of a 3rd Amendment to the Preliminary Plat “Southwoods Estates” on property in the vicinity of 5730 Rose Avenue, to provide for a Final Plat 3 that would have 7 development lots on a public street cul-de-sac Maish Avenue extending from Southwest 56th Street, and an 11.4-acre Outlot “Z” reserved for future platting. This would eliminate extensions of Rose Avenue and Watrous Avenue shown on the previously approved amendment to the Preliminary Plat.

(13-2021-1.38)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

After meeting with City Staff from the Development Services Department and the Engineering Department, the applicant has requested a continuance to the April 15, 2021 meeting of the Commission to allow resubmittal of a revised Preliminary Plat.

III. STAFF RECOMMENDATION

Staff recommends that the item be continued to the April 15, 2021 meeting of the Commission.

SUMMARY OF DISCUSSION

Dory Briles stated the applicant for item #13 have requested a continuance to the May 6, 2021 Plan and Zoning Commission meeting.

COMMISSION ACTION:

Abby Chungath made a motion to continue item #13 to the May 6, 2021 Plan and Zoning Commission meeting.

THE VOTE: 13-0

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Committee and Director’s Reports:

Meeting adjourned at 8:08pm