Plan and Zoning Commission Minutes of Meeting
Des Moines, Iowa May 6, 2021

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The May 6, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 840 3510 5681


P&Z ABSENT: Greg Wattier and Emily Webb

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

Carolyn Jenison made a motion to approve the April 15, 2021 Plan and Zoning Commission meeting minutes. Motion carried 9-0-3 (Jann Freed, Dory Briles and Rocky Sposato abstained as they were not present for the April 15 meeting).

Dory Briles stated the applicant for item #11 agrees with staff recommendation and could be considered under the consent portion of the agenda. Asked if anyone wished to speak in opposition to this item. No one came forward.

Jann Freed made a motion to move item #11 to the consent agenda. Motion Carried 12-0

Dory Briles asked if any members of the public or the Commission wished to speak on consent agenda items #1, #2, #3, #4, #5, #6, #7 or #8. Members of the public requested to speak on items #2 and #3.

Jann Freed made a motion to approve consent agenda items #1, #4, #5, #6, #7, #8 and #11. Motion carried 12-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

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 19 development lots on a Maish Avenue cul-de-sac and an extended cul-de-sac for Rose Circle. The Plat would include the Right-Of-Way dedication for the north half of Watrous Avenue to extend along the southern border of the property. (13-2021-1.38)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to further subdivide the subject property. The proposed amendment would reconfigure the southern portion of the property for a projected 3rd Final Plat that would have 18 one-household living lots.
The developer has approved Final Plats for Southwoods Estates Plat 1 & 2 that include 45 lots, many of which are already constructed.

2. **Size of Site:** The original Preliminary Plat was comprised of 39.94 acres. The proposed amendment area is 13.793 acres.

3. **Existing Zoning (site):** “N2b” Neighborhood District.

4. **Existing Land Use (site):** Undeveloped land with timber.

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

   - **East** - “EX”; Uses are three single-family dwellings and vacant land.
   - **West** – Airport Commerce Park West “PUD”; Uses are light industrial and vacant land.
   - **North** - Airport Commerce Park West “PUD”; Uses are light industrial and vacant land.
   - **South** - “EX”; Use is undeveloped land.

6. **General Neighborhood/Area Land Uses:** The subject property is located in an area that contains light industrial uses, undeveloped land and some large-lot single-family dwellings. Southwoods Estates Plat 1 & 2 are currently being developed with one-household living homes.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Southwestern Hills Neighborhood. All neighborhood associations were notified of the public hearing meeting by mailing of the Preliminary Agenda on April 16, 2021. Notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the original hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on April 30, 2021.

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

8. **Relevant Zoning History:** On December 4, 2017, the City Council amended the future land use designation from Business Park to Low Density Residential for the subject property and other undeveloped property north of the proposed Southwest Connector alignment and west of Southwest 56th Street.

   Included in the motion of the City Council was direction to provide and secure a protection buffer on the residential development property to protect from previously approved business park areas to the north and west that are yet undeveloped. It
was indicated that this should be considered as part of future development review. These business park areas were approved when the Comprehensive Plans for the City of that time (Land Use 2000) contemplated that the subject property was to be an extension of the business park and not residential development. Therefore, when the Council revised this with the December 2017 amendment to the PlanDSM, they wanted to ensure that the existing approved business park areas were not obligated to provide the residential protection, but rather the residential development would include the protection as development occurs.

On April 19, 2018 the Plan and Zoning Commission approved a Preliminary Plat of the subject property, “Southwood Estates” which included 23 lots for one-household living development. It also created two outlots to allow for extension of Watrous Avenue from the west in cooperation with development of adjoining property to the south and development of the currently planned Southwest Connector Part 2.

On July 19, 2018, the Plan and Zoning Commission approved the first Preliminary Plat amendment. This amendment specifically showed the originally approved Lot 32 being further divided into 27 additional one-household living lots on a cul-de-sac, including a large 6.678 acre lot containing an existing two-story one-household living dwelling.

On February 7, 2019 the Plan and Zoning Commission approved a second Preliminary Plat amendment redefining the same area that is the subject of the current consideration. This was approved with the following conditions:

A) Compliance with all administrative review comments from the Permit and Development Center.

B) Any further submitted Final Plat pursuant to this Preliminary Plat amendment shall dedicate all remaining street Rights-of-Way within the Preliminary Plat.

C) The City shall be provided guarantee in a form approved by the City Engineer and City Legal Department, which may include an escrow agreement, surety or bonds, for the completion of all public improvements within the approved Preliminary Plat amendment as part of any further Final Plat phase of the development.

D) Development of any lots within any further Final Plat phase of development shall demonstrate compliance with the Fire Code.

E) Any further Final Plat phase shall provide necessary Avigation easements for platted lots as determined necessary by the Des Moines Airport Authority.


10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission shall determine if such Preliminary Plat conforms to the standards and requirements outlined in Chapter 354 of the Iowa Code, and the City Subdivision Ordinance and shall approve, conditionally approve
or reject such Plat within 45 days after the date of submission to the City Permit and Development Center. Unless the applicant agrees in writing to an extension of time, the Preliminary Plat shall be deemed approved if the Commission does not act within such 45-day period. The Commission's action for approval or conditional approval shall be null and void unless the Final Plat is submitted to the City Permit and Development Center within 270 days after the date of such action; provided, however, that the Permit and Development Administrator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the Final Plat to the City Permit and Development Center.

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Land Use Designation: The subject property is designated as “Low Density Residential” on the Future Land Use Map. PlanDSM describes this designation as “areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.” The submitted Preliminary Plat would be in conformance with this designation.

2. Natural Site Features: The overall development includes natural drainage areas and existing trees. The proposal is subject to the City’s Tree Removal and Mitigation requirements in Article X Chapter 42 of the City Code. The applicant has provided a plan in accordance with Chapter 42 that is under administrative review.

3. Utilities: There are sanitary sewer and water mains nearby that will be extended to serve the development. These mains are shown within the proposed public street network. While the construction of Watrous Avenue extension would not be imminent with the build out of the Preliminary Plat, the document should demonstrate the location and general design of the public water main extension within the Watrous Avenue extension as it is to be built.

4. Traffic/Street System: Rose Avenue would be extended southwest from its current configuration. The extended street would create a new a new cul-de-sac to be called Rose Circle. Another cul-de-sac, Maish Avenue, would also be built and accessed from 56th Street. Additionally, Watrous Avenue would be extended east from its current configuration and intersect with 56th Street. This project would be constructed separately in conjunction with the dedication of the remaining Right-Of-Way (ROW) from the property to the south.

   The Plat only includes half of the necessary ROW for extension of Watrous Avenue to be constructed. Staff notes that until Watrous Avenue is constructed, the City’s Fire Code may require the developer to provide fire sprinkler systems on final platted lots that are on a dead-end segment of street that is more than 750 feet in length even if the street would eventually connect to Watrous Avenue.

5. Avigation: Based on projected noise contours from future runway improvements to the Des Moines International Airport, it may be necessary for the developer to provide avigation easements recorded on final platted parcels in the development to protect the interests of the Airport from nuisance claims due to excessive sound
and flight patterns. This will be reviewed with Plat reviews to be approved by the City Council.

6. **Industrial Uses:** There is land adjoining to the west of the amendment area which is approved for industrial use. With the previously approved Preliminary Plat amendment, the Plan and Zoning Commission required the provision of a note identifying the business park zoning and permitted uses for property adjacent to the north and west, and noise ordinance requirements pertaining thereto, to the satisfaction of the Planning Administrator. This previously required note has been carried forward and included on the submitted amendment.

### III. STAFF RECOMMENDATION

Staff recommends approval of the submitted 3rd Amendment to the Southwoods Estates Preliminary Plat subject to the following conditions:

1. Compliance with all administrative review comments from the Development Services Department.

2. Development of any lots within any further Final Plat phase of development shall demonstrate compliance with the Fire Code.

3. Revised to show locations of future water main required by Des Moines Water Works within the future Watrous Avenue.

4. Any further Final Plat phase shall provide necessary Avigation easements for platted lots as determined necessary by the Des Moines Airport Authority.

### 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:

Jann Freed made a motion for approval of the submitted 3rd Amendment to the Southwoods Estates Preliminary Plat subject to the following conditions:

1. Compliance with all administrative review comments from the Development Services Department.

2. Development of any lots within any further Final Plat phase of development shall demonstrate compliance with the Fire Code.

3. Revised to show locations of future water main required by Des Moines Water Works within the future Watrous Avenue.
4. Any further Final Plat phase shall provide necessary Avigation easements for platted lots as determined necessary by the Des Moines Airport Authority.

THE VOTE: 12-0

Item 4

Request from Merle Hay Anchors, LLC (owner) represented by Jim Sutphen (officer) for the following for property located at 4000 Merle Hay Road, to allow new construction of a 55,000 sq. ft. Commercial Center Type building.

A) Review and approval of a Large Scale Development Plan for the 12.82 acre property to include the Commercial Center, additional future retail to the north and within a pad site along Merle Hay Road, and additional surface on-site parking area.

B) Review and approval of a Public Hearing Site Plan "Kohl’s at Merle Hay" for the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4(B) and 135-9.3.1(B), (10-2021-7.62)

1) Allow a primary frontage coverage that is deficient the 50% frontage coverage required per Section 135-2.8.3(A)(2).
2) Allow a primary frontage build-to-zone that is deficient of the required 0-15 feet build-to-zone per Section 135-2.8.3(A)(3).
3) Allow the total impervious surface area to be 88% of the site which exceeds the maximum 75% maximum impervious surface area allowed per Section 135-2.8.3(A)(7).
4) 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 135-2.8.3(A)(8).
5) Allow 35.7% transparency on the primary frontage façade (East) where 60% is required and allow 0% transparency on the south façade where 60% Minimum Primary Frontage Ground Story Transparency is required per Section 135-2.8.3(D)(18).
6) Allow only one entrance location on a primary frontage which is two entrances less than what is required to meet a minimum of one entrance per 90 feet of primary street façade per Section 135-2.8.3(D)(20).
7) Allow Synthetic Stucco as a minor façade material on the ground story level where only allowed on the 3rd floor or higher per Table 135-4.1-2. (Denied Type 1)
8) Allow Synthetic Stucco banding accent material which is prohibited per Table 135-4.1-5.
9) Waiver of landscaping requirements to allow ornamental tree species rather than required overstory trees per section 135-7.7.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to build a new 55,000 Kohl’s retail store on the former Sears site at Merle Hay Mall. The building will be freestanding and not attached to the mall. The site measures 12.86 acres, which requires approval of a Large-Scale Development Plan. Type 2 Design Alternatives are also required for building siting, design, and materials.

2. **Size of Site:** 560,252 square feet (12.86 acres).

3. **Existing Zoning (site):** “CX” Commercial Mix District.

4. **Existing Land Use (site):** Commercial.

5. **Adjacent Land Use and Zoning:**
   - **North** – “CX”; Use is a strip retail commercial center.
   - **South** – “CX”; Use is Merle Hay Mall.
   - **East** – “MX3”; Uses are commercial.
   - **West** – Property to the west is located in the jurisdiction of Urbandale; Use is parking that serves Merle Hay Mall.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the west side of Merle Hay Road, immediately north of Merle Hay Mall at the northwest corner of Merle Hay Road and Douglas Avenue. The surrounding area contains a mix of large- and small-scale commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Merle Hay Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on April 16, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the original public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 30, 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 Merle Hay Neighborhood Association mailings were sent to Christopher Morse, 52nd Street, Des Moines, IA 50310.

8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Regional Mixed Use within a Regional Node

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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

- Consider the smart planning principles set forth in Iowa Code Chapter 18B.
Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  
  ➢ An evaluation of the character of the surrounding neighborhood, such as:
    
    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;
I. 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. Large-Scale Development Plan: Per Section 135-5.1 of the Planning and Design Ordinance, the intent of the Large-Scale Development Plan is to ensure that large parcels over 5 acres in size are developed in a coordinated manner with adjoining properties to create more cohesive and connected developments.

The large-scale plan submitted for the Kohl’s site indicates conceptual locations for future 80,000 SF of retail to the north, a pad site along Merle Hay Road, and additional surface parking to serve the future retail. Staff recommends approval of the Large-Scale Development Plan subject to the submittal of updated plans that include notes to address phasing, greenspace, and pedestrian connectivity, to the satisfaction of the Planning and Urban Design Administrator.

2. Building Frontage and Siting: Section 135-2.8.3.A regulates the siting of commercial buildings within a Commercial Center. Commercial buildings in a CX district are required to be sited with 50% Front Lot Line Coverage (Primary Frontage). The commercial buildings are also to be located within 15’ of the front right-of-way line (Build-to-Zone), and parking is to be located within the rear or interior side yard only.

The Kohl’s property is irregularly shaped with minimal frontage along Merle Hay Road due to the Tenney Standpipe located adjacent the property. Providing 50% Front Lot Line coverage is not feasible given the constraints of the lot. Staff also believes that siting the new building in-line with the adjacent Merle Hay Mall, with parking in front, provides for a cohesive shopping center development that facilitates vehicular and pedestrian circulation. Staff recommends approval for all Type 2 Design Alternatives regarding primary frontage coverage, primary frontage build-to zone, and surface parking location.

3. Building Design: The proposed building consists primarily of precast concrete panels with a textured coating in five different colors. Brick and stone veneer are proposed as secondary materials, and EIFS is incorporated around the front entrance. A single entrance is proposed on the east-facing building façade. A pedestrian pathway will be located along the south façade, between Kohl’s and the existing mall. Future in-line retail will be located to the north of Kohl’s. The building plans were presented to the Urban Design Review Board (UDRB) at the April 20, 2021 meeting and UDRB was asked to provide input on the front entrance location, transparency requirements, and proposed materials.

Type 2 Design Alternatives are required to Allow 35.7% transparency on the primary frontage façade (east) where 60% is required and allow 0% transparency.
on the south façade where 60% Minimum Primary Frontage Ground Story Transparency is required per Section 135-2.8.3(D)(18). The UDRB determined that additional transparency is not needed on the east or south facades in their review of the project. Staff recommends approval of Type 2 Design Alternatives for transparency.

Per Section 135-2.8.3(D)(20), one entrance is required per 90 feet of primary façade. Three entrances are required; one is proposed. The UDRB determined there is no need for additional entrances and that one is sufficient for development of this nature in their review of the project. Staff recommends approval of a Type 2 Design Alternative for one entrance.

Table 135-4.1-2 prohibits the use of synthetic stucco (EIFS) as a minor façade material on the ground story level. Table 135-4.1-5 prohibits synthetic stucco banding accent material. The applicant has indicated to staff in a comment letter that they are revising the building plans to significantly reduce the amount of EIFS around the front entrance. Instead, the EIFS will be replaced with brick and stucco in all but one location. The UDRB did not provide input on the materials as they understood the applicant was revisiting the concern. Staff has not yet received the revised elevations. Staff recommends approval of a Type 2 Design Alternative, subject to final review by the Planning and Urban Design Administrator. This would allow staff to continue to work with the applicant.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the Large-Scale Development Plan subject to the submittal of updated plans that include phasing, greenspace, and pedestrian connectivity, to the satisfaction of the Planning and Urban Design Administrator.

Part B) Staff recommends approval of the following Type 2 Design Alternatives:

- Allow a primary frontage coverage that is deficient the 50% frontage coverage required per Section 135-2.8.3(A)(2).
- Allow a primary frontage build-to-zone that is deficient of the required 0-15 feet build-to-zone per Section 135-2.8.3(A)(3).
- 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 135-2.8.3(A)(8).
- Allow 35.7% transparency on the primary frontage façade (east) where 60% is required and allow 0% transparency on the south façade where 60% Minimum Primary Frontage Ground Story Transparency is required per Section 135-2.8.3(D)(18).
- Allow only one entrance location on a primary frontage which is two entrances less than what is required to meet a minimum of one entrance per 90 feet of primary street façade per Section 135-2.8.3(D)(20).
• Allow a limited amount of Synthetic Stucco material around the primary entrance as an accent as reviewed and approved by the Planning and Urban Design Administrator.

**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:**

*Jann Freed* made a motion for approval of:

Part A) Approval of the Large-Scale Development Plan subject to the submittal of updated plans that include phasing, greenspace, and pedestrian connectivity, to the satisfaction of the Planning and Urban Design Administrator.

Part B) Approval of the following Type 2 Design Alternatives:

• Allow a primary frontage coverage that is deficient the 50% frontage coverage required per Section 135-2.8.3(A)(2).

• Allow a primary frontage build-to-zone that is deficient of the required 0-15 feet build-to-zone per Section 135-2.8.3(A)(3).

• 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 135-2.8.3(A)(8).

• Allow 35.7% transparency on the primary frontage façade (east) where 60% is required and allow 0% transparency on the south façade where 60% Minimum Primary Frontage Ground Story Transparency is required per Section 135-2.8.3(D)(18).

• Allow only one entrance location on a primary frontage which is two entrances less than what is required to meet a minimum of one entrance per 90 feet of primary street façade per Section 135-2.8.3(D)(20).

• Allow a limited amount of Synthetic Stucco material around the primary entrance as an accent as reviewed and approved by the Planning and Urban Design Administrator.

**THE VOTE:** 12-0
Item 5

Request from Jeffrey Hayes and Susan Crowley for review and approval of a Public Hearing Site Plan 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 1049 38th Street, to allow a 996.25-square foot detached garage to be 2 feet from the north side side lot line which would be 3 feet less than the minimum required 5-foot setback for an accessory building from any property line required per Section 135-2.22.1(D)(3)(b) and 135-2.22.2(C)(1). (BLD2021-00595)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to construct a 996.25-square foot detached garage at the northeast corner within the rear yard. The garage would be constructed on an existing foundation that was built as part of a previously approved permit in 2016. The garage would be constructed with like materials and roof profile to match existing house.

2. **Size of Site:** 51-foot by 195-foot parcel (9,984 square feet).

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

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

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

   - **North** – “N5”; Uses are one-household dwellings.
   - **South** – “N5”; Uses are one-household dwellings.
   - **East** – “N5”; Uses are one-household dwellings.
   - **West** – “N5”; Use is 38th Street and one-household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is in a primarily residential area, located along the east side of 38th Street and north of Kingman Boulevard. The area consists of one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda on April 16, 2021. Additionally, separate notifications of the hearing were mailed on April 26, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all recognized neighborhoods on April 30, 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 Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

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

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

10. **Applicable Regulations:** Section 135-2.22.1.D.3.b and Section 135.2.22.2.C.1 state that minimum side and rear setback of an accessory structure or an outbuilding shall be 5 feet.

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 for accessory structure by 60% exceeds the amount of relief that could be granted as a Type 1 Design Alternative.

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Type 1 Design Alternatives Approved Administratively: A Type 1 Design Alternative was approved decreasing the minimum required story height of garage 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 135-2.16.3.B.14 of the Planning and Design Ordinance.

2. Staff Analysis: The proposed detached garage would be located on the northeast corner of the rear yard. It would be within 2 feet of the north lot line, while outbuildings are required to be at least 5 feet from lot line. The garage was approved under the previous zoning code in 2016 and a partial foundation was constructed. While the applicant continued to work on the repair and rehab of the principal structure, issues with the contractor kept him from completing construction of the garage. The applicant has now finished work on the principal building and is ready to resume construction of the garage.

Staff has reviewed the proposed garage relative to the character of the existing dwelling and the surrounding neighborhood area. The garage 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 reduced setback would have negligible impact on the adjoining property. The overall building design meets the intent of Chapter 135.
III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative subject to compliance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.

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:

Jann Freed made a motion for approval of the requested Type 2 Design Alternative subject to compliance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.

THE VOTE: 12-0

Item 6

Request from CLI Properties, LLC (owner) represented by Christopher B. Rottler (officer) for review and approval of a Public Hearing Site Plan “Community Lawyers of Iowa” 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 601 & 607 Hickman Road, to allow for parking lot improvements for the existing law office use and one-household residential use with waiver of undergrounding the existing overhead utility lines required per Section 135-9.2.1(E). (10-2021-7.77)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow parking lot paving and landscaping improvements.

2. Size of Site: 13,796 square feet (0.317 acres).

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

4. Existing Land Use (site): The property contains a 1-story one household living dwelling and an 1,886-square foot, 1-story commercial building used for professional offices.

5. Adjacent Land Use and Zoning:
North – “P1” & “F”; Use is Des Moines River.
South – “NX2”; Uses are multiple-household living dwellings.
East – “N5”; Use is a one-household dwelling.
West – “P2”; Use is a one-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located just south of the Des Moines River along Hickman Road at 6th Avenue. The area is in the Historic River Bend Neighborhood with an eclectic mix of residential densities and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the River Bend Neighborhood and within 250 feet of the Highland Park/Oak Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 16, 2021 and by mailing of the Final Agenda on April 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The River Bend Association mailings were sent to Chris Chiaramonte, 409 Franklin Avenue, Des Moines, IA 50314. The Highland Park/Oak Park Neighborhood Association mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. Relevant Zoning History: The property was zoned to “RX1” Mixed Use District as part of the citywide Zoning Map updated effective on December 15, 2019. 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. Overhead Utility and Service Line Standards: Section 135-9.2.1.E of the Planning and Design Ordinance requires that all electrical, telephone, and cable television transmission systems shall be placed underground whenever reasonably practical. Both buildings on the property are served by an overhead electrical service line that feeds from overhead transmission line poles in adjoining Hickman Road. There are two utility poles on that frontage, with one of the buildings feed from each. There is also a street light on the southeastern pole near the intersection of 6th Avenue and Hickman Road.

On April 27, 2021, MidAmerican Energy Company provided estimates to underground transmission lines adjoining the property and then as necessary underneath across Hickman Road and underneath across 6th Avenue at a cost to the property owner of $29,590.20. This does not include the cost for the owner to update the service to the new transformer from each building. The estimated total project cost for the paving and landscaping improvements is between $50,000 and $60,000. This would put the percentage of the undergrounding cost to the property owner at approximately 50% of the intended project cost. Additionally, the City would be required to run a new service connection to the traffic signal cabinet.

Staff does not believe that it would be reasonably practicable to require all utilities to be relocated underground since it would cost the applicant nearly half-again as much of the cost of the originally proposed project.

III. STAFF RECOMMENDATION

Staff recommends that the Commission find that it would not be reasonably practicable to require all utilities to be relocated underground since it would cost the applicant and additional amount approximately $30,000 which is close to 50% of the initially proposed project cost of $60,000. Staff recommends further that the Commission grant a Type 2 Design Alternative to waive the requirement for undergrounding the adjoining public utilities.

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:

Jann Freed made a motion that the Commission find that it would not be reasonably practicable to require all utilities to be relocated underground since it would cost the applicant and additional amount approximately $30,000 which is close to 50% of the initially proposed project cost of $60,000 with approval of granting a Type 2 Design Alternative to waive the requirement for undergrounding the adjoining public utilities.

THE VOTE: 12-0
Item 7

Request from Swicthmen Investments (developer) represented by Spencer Vanderberg (officer) for review and approval of a Public Hearing Site Plan “Secret Admirer Bar” for the following Type 2 Design Alternatives 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 at 110 Southeast 5th Street, to allow reuse of the property for a Bar with outside seating area. The subject property is owned by Lederman Borthers Property Management Company, LLC. (10-2021-7.79)

   A) Waiver of the requirement to underground the existing overhead utility lines required per Section 135-9.2.1(E).
   B) Waiver of the requirement for the street light in the adjoining street Right-Of-Way required to be replaced by a black fixture per Engineering Department per Section 135-7.6.5(B)(6).
   C) Waiver of the minimum 70% primary frontage ground story transparency required per Section 135-2.3.3(D)(19).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to reuse the existing building for a bar use with an outdoor patio.

2. Size of Site: 2,996 square feet (0.069 acres).


4. Existing Land Use (site): The subject property contains a 1-story building built circa 1900 with 1,172 square feet of gross floor area. The most recent occupancy was a personal service use for a hair and nail salon.

5. Adjacent Land Use and Zoning:

   North - “DX2”; Use is surface parking lot.
   South - “DX2”; Use is multiple-household living dwelling (condominium).
   East - “DX2”; Use is surface parking lot.
   West - “DX2”; Use is surface parking lot.

6. General Neighborhood/Area Land Uses: The subject property is located at the south edge of the near west Downtown area just a block north of West Martin
Luther King, Jr. Parkway. Surrounding uses are a mix of surface parking, MidAmerican utility substation, multiple-family household dwellings (Rumely and Whiteline Lofts), Science Center of Iowa, Rock Island Depot (Business Publications offices) and DART Central Station.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 16, 2021 and by mailing of the Final Agenda on April 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

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 Downtown Des Moines Neighborhood mailings were sent to Sebastian Hamirani, 1400 Walnut Street #413, Des Moines, IA 50309.

8. **Relevant Zoning History:** On December 15, 2019, the City Council rezoned the property to “DX2” Downtown District as part of the citywide Zoning Map update.

On December 16, 2020 by Docket No. ZON2020-00153 the Zoning Board of Adjustment granted a Conditional Use for a bar on the property subject to the following conditions:

A) Any business selling alcoholic liquor, wine and/or beer shall operate in accordance with a liquor license obtained through the Office of the City Clerk as approved by the City Council.

B) Any “Bar” use with sales of alcoholic liquor, wine and/or beer for on-premise consumption shall be limited to the existing 1,220-square foot building and a proposed 1,735-square foot outdoor patio.

C) Any sale of alcoholic liquor, wine and/or beer for off-premise consumption shall be prohibited.

D) Any business selling alcoholic liquor, wine and/or beer shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control. However, there shall not be any stage or performances within the outdoor patio area, and any speakers or amplified sound within the outdoor patio area shall be in accordance with a Class E sound permit only, which shall limit any amplified sound to levels that are considered to be background auditory in nature.

E) Any business selling alcoholic liquor, wine and/or beer shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
F) Any business selling alcoholic liquor, wine and/or beer shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs and cooperate with police in addressing loitering on the premises.

G) Any business selling alcoholic liquor, wine, and/or beer shall not dispense alcoholic beverages from a drive-through window.

H) Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

I) Any renovation of the building shall be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the City’s Permit and Development Center.

J) If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.


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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Minimum Transparency Requirement: The proposed project value as a percentage of the existing building values triggers compliance with regulations for the Downtown Storefront Building Type. Section 135-2.3.3(D)(19) requires a minimum 70% transparency between 2 feet and 10 feet above grade of the primary frontage façade. The applicant is seeking to maintain the existing integrity of the building which has a 40% transparency. Staff concurs with the applicant's intent to preserve the historic integrity and character of the building façade and would support the requested design alternative.

2. Overhead Utility, Black Light Fixture Replacement and Service Line Burial Requirement: Section 135-9.2.1(E) of the Chapter 135 Planning and Design Ordinance requires that all electrical, telephone, and cable television transmission systems be placed underground whenever reasonably practical. Section 135-7.6.5(B)(6) requires that light fixtures be replaced with a black fixture type per the approved City Traffic Engineering specifications. There are overhead electrical transmission lines within the adjoining Southwest 5th Street. They terminate at a pole with a street light in front of the subject property and do not continue south. The subject property and an adjoining parking lot to the west and the north have overhead services lines to the pole.
The applicant provided the following quote from MidAmerican Energy on the work necessary to underground the electrical utilities and replace the street light with the required black fixture.

*MidAm Quote:* “I have reviewed the property above and would like to provide you with a high-level engineering estimate to convert your service and the streetlighting along your property as requested. The scope of work for this involves the following items:

- Remove 1 wooden streetlight pole
- Install 1 new black anchor base streetlight
- Install 1 traffic rated secondary enclosure in sidewalk
- Convert existing service for parking lot from OH to underground
- Extend 200’ of 4/0 AL triplex conductor to next streetlight
- Install secondary riser on next streetlight pole north along SW 5th Street.
- Secure 1 railroad permit with rigid steel crossing

With these factors considered, I would anticipate the base costs to be at least $36,000 before applicable taxes. Given the location of this pole having 3 overhead services tied to it, including another customer’s commercial service, there would be a significant amount of coordination involved.”

The overall estimated project cost provided for the building conversion and renovation is $92,000. This puts the undergrounding and light fixture cost estimated at about 39% of the originally intended project cost. In this instance, given the high cost of the utility burial compared to the overall project cost, 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 along with replacement of the street light fixture per Section 135-7.5.6(B)(6). 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**

Parts A & B) 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. Staff further recommends approval of Type 2 Design Alternatives to waive the requirement for undergrounding the electrical utilities and replacement of the streetlight fixture.

Part C) Staff recommends that the Commission grant the requested Type 2 Design Alternative to allow the existing primary frontage façade of the building to be
maintained at 40% transparency based on a finding that the integrity of the historic building be maintained in this instance.

**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:**

Jann Freed made a motion for approval of:

Parts A & B) The Commission finds 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 with approval of a Type 2 Design Alternatives waiving the requirement for undergrounding the electrical utilities and replacement of the streetlight fixture.

Part C) Approval of a Type 2 Design Alternative to allow the existing primary frontage façade of the building to be maintained at 40% transparency based on a finding that the integrity of the historic building be maintained in this instance.

**THE VOTE: 12-0**

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**Item 8**

Request from MercyOne Medical Center Des Moines (owner) represented by Dianne Cummings (officer) for review and approval of a PUD Final Development Plan "MercyOne Richard Demming Cancer Center" on property located at 411 Laurel Street, to allow a new drop-off drive and canopy added to the west front entrance area of the building. (10-2021-7.80)

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

**1. Purpose of Request:** The proposed Development Plan would facilitate the construction of a new drop-off lane to the west of the existing building. Access to the drop-off would come from an existing north/south private drive. The improvements include the construction of a new canopy providing cover to the west façade building entrance. The proposal complies with PUD Conceptual Plan amendments that the Commission reviewed on January 21, 2021.
2. **Size of Site:** The site measures 27,609 square feet (0.63 acres). The entire PUD encompasses approximately 38 acres.

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

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

5. **Adjacent Land Use and Zoning:**
   - **North** – “PUD”, Use is the Mercy Medical Center campus.
   - **South** – “DX2”, Uses include Des Moines Medical Center offices, Iowa Dental Supply, and Medical Office Plaza.
   - **East** – “PUD”, Use is the Mercy Medical Center campus.
   - **West** – “PUD”, Use is the Mercy Medical Center campus.

6. **General Neighborhood/Area Land Uses:** The subject property is located north the north side of Laurel Street in an area that contains a mix of medical related uses including the Mercy Medical Center campus.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Cheatom Park Neighborhood and within 250 feet of the River Bend Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on April 16, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the hearing) to the Cheatom Park Neighborhood, River Bend Neighborhood, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on April 30, 2021.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Cheatom Park Neighborhood Association mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314 and the River Bend Neighborhood Association mailings were sent to Chris Chiaramonte, 409 Franklin Avenue, Des Moines, IA 50314.

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

   The 1st amendment was approved administratively in June 2004 to allow construction of a building addition to the south side of the hospital for a “Cyber Knife” facility.
   The 2nd amendment was approved administratively in June of 2006 to allow a new signage plan for the hospital complex.
The 3rd amendment was approved by City Council in April 2007 (Roll Call 07-688) to allow construction of a building addition to the northwest corner of the hospital for an expansion of the emergency room and a helicopter pad.

The 4th amendment was approved on September 26, 2016 (Roll Call 16-1668) to expand the PUD area by 2.3 acres and to allow for the demolition of the existing Mercy Apartments for development of a new parking structure and additional surface parking; demolition of the Mercy Office Plaza building for development of a parking structure; and demolition of the existing east parking structure for development of an 11-story hospital tower with 2 levels of subsurface parking.

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

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

The 7th amendment was approved on February 22, 2021 (Roll Call 21-0320) to allow construction of a canopy on the building known as 411 Laurel Street and revision to the campus sign.

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

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. **Building Modifications:** The proposed PUD Final Development Plan allows the construction of a new entrance canopy along the west façade of the building known as 411 Laurel Street. The canopy would generally measure 98 feet by 22 feet, and would replace an existing canopy. The proposed amendment would also allow the existing drop-off lane to be lengthened, which would necessitate construction of a short retaining wall.

2. **Access and Traffic:** The proposed modification will enhance the function of the existing drop-off activity that occurs to the west of the building.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the submitted PUD Final Development Plan subject to compliance with all administrative review comments.

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the submitted PUD Final Development Plan subject to compliance with all administrative review comments.

THE VOTE: 12-0

Item 11

Request from University Avenue Storage, LLC (owner) represented by Will Matthews (officer) for the following regarding the property located at 1960 Claypool Street.

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Business Park to Industrial. (21-2021-4.11)

C) Rezone property from “RX1” Mixed Use District to “I1” Industrial District, to allow redevelopment of the property with Self-Service Storage. (ZON2021-00034)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property is owned in common with adjacent property to the east and at 1901 East University Avenue to the north. The proposed rezoning and land use amendment would facilitate the expansion of the existing self-service storage located on the adjacent properties. This use is not allowed in the “RX1” District and is not compatible with the Business Park land use classification. The proposed expansion would require a site plan and building elevations to be submitted for review and approval pursuant to the Planning and Design Ordinance.

2. Size of Site: 0.140 acres.

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

4. Existing Land Use (site): The subject property is undeveloped.
5. Adjacent Land Use and Zoning:

   **North** – “RX1”; Uses are one-household dwelling units.

   **South** – “RX1”; Use is auto repair shop.

   **East** – “I1”; Use is undeveloped land.

   **West** – “RX1”; Uses are one-household dwelling units.

6. **General Neighborhood/Area Land Uses:** The subject property is located near the intersection of Claypool Street and Hubbell Avenue. The area contains a mix of commercial, industrial, and residential uses to the west of a north/south railroad.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Capitol East Neighborhood and within 250 feet of the Martin Luther King, Jr. Park Neighborhood, the Fairground Neighborhood, and the ACCENT Neighborhood. The neighborhood associations were notified of the April 15, 2021 public hearing by mailing of the Preliminary Agenda on March 26, 2021 and by mailing of the Final Agenda on April 9, 2021. Additionally, separate notifications of the April 15, 2021 hearing for this specific item were mailed on March 26, 2021 (20 days prior to the public hearing) and on April 5, 2021 (10 days prior to the public hearing) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The neighborhood associations were notified of the May 6, 2021 public hearing by mailing of the Preliminary Agenda on April 16, 2021 and by mailing of the Final Agenda on April 30, 2021.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Capitol East Neighborhood Association notices were mailed to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316. The Martin Luther King, Jr. Park Neighborhood Association notices were mailed to Charice Williams, 1434 East 18th Street, Des Moines, IA 50316. The Fairground Neighborhood Association notices were mailed to Laura Mundy, P.O. Box 473, Pleasant Hill, IA 50327. The ACCENT Neighborhood Association notices were mailed to Kevin Scott Marken, 2109 East 28th Street, Des Moines, IA 50317.

   The applicant is required to do neighborhood outreach as part of the rezoning process. They will be available to provide a summary of that neighborhood outreach at the public hearing.

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The subject property is designated as “Business Park” on the Future Land Use Map. PlanDSM describes this designation as follows:

   Business Park: Accommodates light industrial, office and employment uses along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences, and would have little or no adverse effect on surrounding properties.

   The applicant is proposing to rezone the property from “RX1” District to “I1” District. The Zoning Ordinance states that “RX1 is intended for transitional areas between “MX” districts and “N” districts, providing for residential and office buildings at a scale and intensity appropriate for corridor's adjacent to low-scale neighborhoods.” Building types allowed in this district include Commercial Cottage, General Building, Civic Building, Principal-Use Parking Structure, Flat Building, and Row Building.”

   The proposed “I1” District zoning requires the “Industrial” designation on the Future Land Use Map. PlanDSM describes this designation as follows:

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

   The Zoning Ordinance states that “I1 is intended for general industrial uses, warehousing, and transportation terminal.” Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.”

2. Planning and Design Ordinance: Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a site plan and building elevations for review before the property can be occupied by the proposed use.

   In addition to typical Workshop Building, landscaping and parking design standards, any development that includes self-storage units would have to comply with the following requirements from Section 135-2.9.3.E.3.
a. A minimum of 10 feet of separation between buildings.

b. A maximum building height of 25 feet.

c. A maximum building length or depth of 150 feet.

d. All siding materials within four feet of grade shall consist of brick, concrete masonry units, concrete surfaces or stone as defined as Major Facade Materials in section 135-3.2.2 of this chapter.

e. The doors to individual units or to common loading areas shall not face a public street, primary frontage or N district.

f. All units shall be located within a fenced and gated compound.

g. All fencing shall be wrought iron or tubular steel construction painted earth tones or black to complement the buildings. All fencing shall be supported by masonry pillars that generally match the siding materials of the building(s).

h. All fencing shall be supported by masonry pillars that generally match the siding materials of the building(s).

3. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “I1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Business Park.

Part B) Staff recommends amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Business Park to Industrial.

Part C) Staff recommends approval of rezoning the subject property from “RX1” Mixed Use District to “I1” Industrial District.

**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:**

Jann Freed made a motion for approval of:

Part A) The proposed rezoning to “I1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Business Park.
Part B) Amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Business Park to Industrial.

Part C) Approval of rezoning the subject property from “RX1” Mixed Use District to “I1” Industrial District.

THE VOTE: 12-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Jerry’s Homes, Inc. (owner) represented by Jay Cowan (officer) for review and approval of the Preliminary Plat “Pearl Lake” on 14.65 acres of property in the vicinity of the 3100 block of East Payton Avenue for development of 39 one household residential lots. Additional property is owned by the City of Des Moines. (13-2021-1.35)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: Allow development of the “Pearl Lake” Conceptual Plan which consists of 39 One Household Living lots in accordance with the approved Conceptual Plan.

2. Size of Site: 37.2 acres.

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

4. Existing Land Use (site): Undeveloped agricultural land, a One Household Living dwelling, and a regional storm water management basin.

5. Adjacent Land Use and Zoning:

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

   South – Three Lakes Estates Phase II Legacy “PUD”, Uses approved for development by the Three Lakes Estates Phase II Conceptual Plan include One and Two Household Living dwelling and Row townhouse development. Property is currently partially developed with additional undeveloped land and regional storm water management basin.
East – “N2b”; Uses are agricultural and timber land.

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

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Easter Lake Area Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 16, 2021 and by mailing of the Final Agenda on April 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Easter Lake Area Neighborhood Association notices were mailed to Jim Bollard, 4007 SE 26th Street, Des Moines, IA 50320.

8. **Relevant Zoning History:** The property was rezoned to “PUD” on September 10, 2001 by the City Council along with approval of the Pearl Lake Conceptual Plan.

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

A 2nd Amendment to the PUD Conceptual Plan was approved on February 22, 2021 by Roll Call No. 21-0319 allowing revision to the street layout, change the property on the East Army Post Road frontage to large-lot One Household lots from previously approved Townhomes, and reduce the minimum lot sizes for specified lots to have a minimum 70-foot width and minimum 9,600-square foot area, subject to the following conditions:

- A) Provision of a proposed water main extension of the existing Des Moines Water Work main to the west in East Army Post Road to serve the propose lots in Area "C".
- B) Provision of a note that any dead-end street segments would provide for necessary temporary fire apparatus turnarounds as part of any Preliminary and Final Plat.

9. **Plan DSM Creating Our Tomorrow:** Low Density Residential, Low-Medium Density Residential, and Park/Open Space with Development Control Zone overlay.
10. **Applicable Regulations**: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission shall determine if such Preliminary Plat conforms to the standards and requirements outlined in Chapter 354 of the Iowa Code, and the City Subdivision Ordinance and shall approve, conditionally approve or reject such plat within 45 days after the date of submission to the City Permit and Development Center. Unless the applicant agrees in writing to an extension of time, the Preliminary Plat shall be deemed approved if the Commission does not act within such 45-day period. The Commission’s action for approval or conditional approval shall be null and void unless the final plat is submitted to the City Permit and Development Center within 270 days after the date of such action; provided, however, that the Permit and Development Administrator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the final plat to the City Permit and Development Center.

II. **ADDITIONAL APPLICABLE INFORMATION**

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

   Calculations for tree removal indicate the requirement to plan 69 mitigation plantings to comply with the tree protection and mitigation requirements of the City Code based on the canopy removal method of 1 tree per 2,000 square feet of canopy removed. The tree planting schedule is shown on sheet 9 of the submitted Preliminary Plat.

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

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

4. **Utilities**: Sanitary sewer service is provided to the site by a main that runs parallel to the drainage way. The Conceptual Plan proposes lateral sewers to serve the proposed development. These laterals are also extended to serve future adjoining development. Per the conditions of the PUD Conceptual Plan as amended, future public sanitary sewer and Des Moines Water Works main extensions to serve Lots 37-39 are shown.
5. **Landscaping & Buffering:** The applicant is proposing street trees along all street frontages. The planting schedule provides for 6 species to be used to diversify the tree plantings. There is an indication of future street tree plantings with the improvement of East Army Post Road. Staff recommends that these be planting with the final platting of the lots with a revision to the Plat to add the note “Future street trees along East Army Post Road are to be installed at such time as Lots 37-39 are developed.”

6. **Traffic/Street System:** The Preliminary Plat proposes to dedicate all existing roadway easements for East Payton and Army Post Road. Two main circulation streets are proposed from the North off East Payton. Each extends to connect with future development to the east and west respectively. Proposed street cross sections are consistent with the MoveDSM Plan configurations. Per the PUD Conceptual Plan approval in conformance with Fire Code, temporary turnarounds and easements are indicated onto adjoining property for the termini of these streets.

### III. STAFF RECOMMENDATION

Staff recommends approval of the submitted Pearl Lake Preliminary Plat subject to the following revisions:

1. Compliance with all comments of the administrative review.

2. Addition on the Landscaping/Tree Mitigation Sheet 9, the note "future street trees along E Army Post Road are to be installed at such time as Lots 37-39 are developed."

### SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

James Cowan 3600 Westown Parkway, representing Jerry’s Homes stated they have no further comments and will address City Staff’s recommendations accordingly.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Roger Hall 3009 Payton Avenue, stated he wanted to address the utilities tied into the proposed public improvements under Item #2 in the general notes of the conceptual plan as they haven’t had any feedback since the prior meeting.

Erik Lundy stated he knows this was brought up during the conceptual plan stage. The plat does show a sanitary easement to the property but isn’t sure what Roger is expecting.

Roger Hall stated based on how the note reads, he believes they will be connected.

James Cowan stated there needs to be an explanation of what the difference between a conceptual PUD and the approved PUD is because the language is different. The
approved PUD does show the sanitary sewer with a 15-foot stub into the property being provided.

Erik Lundy stated there was an amendment to the PUD that allowed the parcel to be cut out and remain with the existing house and provide sanitary sewer with no assurance of actual connection.

Jason Van Essen stated it is typical for a developer to extend infrastructure to the end of their development but atypical for the developer to make a connection to someone else’s house.

Dory Briles stated that wouldn’t be germane to the commission’s action.

Jason Van Essen stated that’s correct, City staff believes this proposal meets code and the intent of the PUD.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Greg Jones made a motion for approval of the submitted Pearl Lake Preliminary Plat subject to the following revisions:

1. Compliance with all comments of the administrative review.

2. Addition on the Landscaping/Tree Mitigation Sheet 9, the note "future street trees along E Army Post Road are to be installed at such time as Lots 37-39 are developed."

**THE VOTE: 12-0**

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**Item 3**

City initiated request for the Vacation of the following segments of street and alley Right-Of-Way in the vicinity of Southeast Astor Street and Shaw Street and the vicinity of Southeast 16th Street and Vale Street, to assemble land for the Municipal Services Center Phase II project.

   (11-2021-1.06)

A) North/south alley between Southeast 15th Court and Southeast Astor Street from Maury Street to Scott Avenue.
B) Southeast Astor Street from Maury Street to the Burlington Northern Santa Fe Railroad north of Shaw Street.
C) North/south alley between Southeast Astor Street and vacated Southeast 16th Street from Maury Street to the Burlington Northern Santa Fe Railroad north of Shaw Street.

D) Shaw Street from vacated Southeast 16th Street to the north/south alley west of Southeast Astor Street.

E) Southeast 16th Street from the vacated east/west alley south of Vales Street to Maury Street.

F) Vale Street from Southeast 15th Street to Southwest 16th Street.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject right-of-way would be assembled with land owned by the City of Des Moines into a single site. It would then be developed and occupied by the Municipal Services Center (MSC) Phase II project. The existing MSC is located to the north of this site.

2. Size of Site: 3.08 acres (134,517 square feet) of cumulative area.

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

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

5. Adjacent Land Use and Zoning: Adjacent land uses include a mix of industrial uses and vacant land that is all zoned “I1” Industrial District.

6. Applicable Recognized Neighborhood(s): The subject rights-of-way are not within 250 feet of a recognized neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on April 16, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 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 for the meeting was mailed to all the recognized neighborhood associations on April 30, 2021.

7. Relevant Zoning History: None.


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

1. Traffic/Access: The subject rights-of-way are undeveloped or minimally developed and not needed for vehicular circulation in the area. They are also not needed for access to property not owned by the City.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested right-of-way vacations.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Dale Jones 3700 Kinsey Avenue, stated he has property at 609 SE 15th Court, 615 SE 15th Court, 627 SE 15th Court and the salvage operation at 1520 Maury Street. If the City vacates this alley, he will not be able to maintain his properties. He would like this item to be continued so he is able to have a conversation with City officials.

Jason Van Essen stated if the commission would like to be involved and see how this request plays out, we can continue this request. The commission could also move forward with their recommendation and include a condition that the applicant work with the neighbor to ensure adequate access to maintain the property. The commission could also leave the recommendation as is and City staff will forward these concerns onto the City’s Real Estate Division.

Dale Jones stated anytime he wants to do work on his property, he will need an insurance policy to be on City property. He would like to work something out with the City and possibly purchase half of the alley.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if there was a time value with this vacation request.

Jason Van Essen stated he isn’t certain how the timing fits into other City processes.

Erik Lundy stated he believes the timing isn’t any different than the phase 2 project of the MSC Building, which would be soon.

Jason Van Essen stated it would be good for it to move forward and make sure addressing these concerns is part of the commissions motion.

Will Page stated he would rather continue this item and allow Dale the time to work with City staff as he’s been a land owner for a long time.

COMMISSION ACTION:
Will Page made a motion to continue item #3 to the May 20, 2021 Plan and Zoning Commission meeting.

THE VOTE: 11-1 (Greg Jones voted in opposition)

Item 9

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

I. 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 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 for the April 1, 2021 meeting 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 April 1, 2021 public hearing) and on March 22, 2021 (10 days prior to the April 1, 2021 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 to the neighborhood associations on March 26, 2021, on April 9, 2021, and on April 30, 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.


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, where these easements ensure that the trail shall not be moved or impacted by the developer.

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.

The developer indicates that the existing trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac would need to be closed for approximately 90 days (barring weather delays) during construction of the new street. In order to minimize the temporary disruption of access to the Carl Voss Trail during construction, Staff recommends provision of a note stating that the developer shall work with the City’s Park & Recreation Director on an acceptable temporary closure of the trail spur, where the closure is limited to as minimal of time as possible, and where the developer shall be responsible for neighborhood outreach and for provision of and maintenance of trail detour signage during any closure to the satisfaction of the City’s Park & Recreation Department Director. In addition, this temporary closure requires a 2-week notice, with detour signage in place at the start of the 2-week notice period.

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, each at least 60 feet wide, for one-household development. The
Conceptual Plan provides eight (8) character examples of front facades of homes that would be constructed. Staff has recommended the notes listed as “Condition 12” below, to ensure appropriate development.

After meeting with the applicant, Staff is proposing the following revisions to the condition previously recommended for the April 15, 2021 Commission meeting:

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 façade; or
   iii. Two varying types of siding, differentiated by pattern and/or texture.

   Any house constructed shall match one of the PUD House Character Elevations, including illustrative trim and siding mixes. Material upgrades and alternative house design may be approved by the Planning and Urban Design Administrator.

d) All windows and doors on the front façade of any house 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 house shall be constructed with a minimum of 1,200 square feet of area.

g) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, LP Smart Siding, or fiber cement board.

h) Any chain link fence shall have black vinyl cladding.

III. STAFF RECOMMENDATION

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

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, where these easements ensure that the trail shall not be moved or impacted by the developer.

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 work with the City’s Park & Recreation Director on an acceptable temporary closure of the trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac, where the temporary closure is limited to as minimal of time as possible, and where the developer shall be responsible for neighborhood outreach and for provision of and maintenance of trail detour signage during any temporary closure to the satisfaction of the City’s Park & Recreation Department Director. In addition, this temporary closure requires a 2-week notice, with detour signage in place at the start of the 2-week notice period.
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. 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) Any house constructed shall generally match one of the PUD House Character Elevations, including illustrative trim and siding mixes. Material upgrades and alternative house design may be approved by the Planning and Urban Design Administrator.
   d) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
   e) Any house shall be constructed with a minimum of 1,200 square feet of area.
   f) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, LP Smart Siding, or fiber cement board.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Jason Van Essen stated it’s normal for a neighborhood that develops over time to have undeveloped areas previously granted for development. The PUD conceptual plan contemplated a street coming through the trees with more trees being eliminated to facilitate more lots than what is proposed now. A lot has been done to preserve woodlands in this particular development.

Eric Bohenkamp 6900 Westown Parkway, representing Hubbell Realty stated he isn’t here to present anything tonight but would answer questions the commissioners or residents may have. He wanted to note, they have donated a significant portion of the wooded area within Riverwoods to the City and are sensitive to the neighborhood and the concerns with deforestation.

Dory Briles asked if they agree with staff recommendation?

Eric Bohenkamp stated yes.

CHAIRPERSON OPENED THE PUBLIC HEARING

None were present or requested to speak.
CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Francis Boggus made a motion for approval of the 10th Amendment to the Riverwoods Legacy PUD Conceptual Plan, subject to the following modifications:

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 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 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, where these easements ensure that the trail shall not be moved or impacted by the developer.

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 work with the City’s Park & Recreation Director on an acceptable temporary closure of the trail spur providing access to the Carl Voss Trail from the bulb of the River Ridge Road cul-de-sac, where the temporary closure is limited to as minimal of time as possible, and where the developer shall be responsible for neighborhood outreach and for provision of and maintenance of trail detour signage during any temporary closure to the satisfaction of the City’s Park & Recreation Department Director. In addition, this temporary closure requires a 2-week notice, with detour signage in place at the start of the 2-week notice period.

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. 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) Any house constructed shall generally match one of the PUD House Character Elevations, including illustrative trim and siding mixes. Material upgrades and alternative house design may be approved by the Planning and Urban Design Administrator.
   d) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
   e) Any house shall be constructed with a minimum of 1,200 square feet of area.
   f) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, LP Smart Siding, or fiber cement board.

THE VOTE: 12-0

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Item 10

Request from Menard, Inc. (owner) represented by Theron Berg (officer) for the following regarding the property located at 6000 Southeast 14th Street; 5907, 5911, and 5917 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 for 5907 Southeast 8th Street and 801 Hart Avenue from Community Mixed Use within a Community Node to Low Density Residential within a Community Node. (21-2021-4.10)

C) Review and approval of an amendment to the Large-Scale Development Plan on file for the existing 20.8-acre site for Retail Sales, Large-Format use.

D) Rezone property from Limited “CX-V” Mixed Use District to “N3a” District and Limited “CX-V” Neighborhood District, to allow retention of two One Household Living residences (5907 Southeast 8th Street and 801 Hart Avenue) that are no longer proposed for redevelopment in conjunction with the Large Format Retail Sales use adjacent to the east and revise zoning conditions contained in Ordinance 15,929 that were applied to the site it was rezoned to “CX-V” District. (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 Limited “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 accessory building, the addition of a third loading dock and enclosure of the rear overhang, and a partial enclosure of the garden center. The rezoning would also allow for the revision of zoning conditions contained in Ordinance 15,929 that were applied to the site when it was rezoned to “CX-V” District, including the condition that required the development to be carried out in accordance with the Large-Scale Development Plan presented to the Plan and Zoning Commission at that time.

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 April 16, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 16, 2021 (20 days prior to the hearing) and April 26, 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 April 30, 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.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Future Land Use Plan:** The proposed rezoning of lots at 5907 Southeast 8th Street and 801 Hart Avenue from Limited “CX-V” Mixed Use District to “N3a” District requires the future land use plan designation for these properties to be revised from “Community Mixed Use” within a Regional Node to “Low Density Residential” within a Regional Node.

2. **Zoning Conditions:** When the property was rezoned on October 5, 2020, by Ordinance 14,929, the following zoning conditions were included:
   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.

A revised Large-Scale Development Plan is proposed, which is regulated by Condition #1. The applicant also requesting that Condition #5 be eliminated, as they have indicated that this condition is detrimental to the project since it requires installation of 1 landscape island for every 8 parking spaces in their existing parking lot. Staff continues to recommend that this condition carry forward with this current rezoning request.

3. **Large Scale Development Plan:** Chapters 134 and 135 of the City Code requires that rezoning of tracts larger than 5 acres in area must be considered under provisions in Chapter 135 Article 5 for Large-Scale Development. The intent of this requirement is to ensure that consideration is given to how the site provides site connectivity and utilities in relation to adjoining properties.

When the entire site was rezoned to “CX-V” District on October 5, 2020, the Council also approved a Large-Scale Development Plan. This plan included the removal of four (4) existing houses along the west edge of the site. Since the applicant is now proposing to retain two (2) of these four (4) houses, the Large-Scale Development Plan needs to be amended to allow for such. The proposed plan demonstrates that the proposed expansion area would be located 77 feet from the west property line instead of 53 feet. The Large-Scale Development Plan demonstrates that this reduction in storage area would be offset by additional storage within the northwest portion of the existing site.

4. **Drainage/Grading:** Any Site Plan for an area over 10,000 square feet would require compliance with the stormwater management requirements of the City Code. Any improvements over an acre in area would require submittal of a Storm Water Pollution Protection Plans (SWPPP) with approval by Iowa DNR.

5. **Permit and Development Center Comments:** Any future expansion of the existing retail use would be subject to compliance with all applicable Building Codes and
compliance with Chapter 135 Planning and Design Ordinance requirements. Furthermore, any required permits must be obtained from the City’s Permit and Development Center.

III. STAFF RECOMMENDATION

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

Part B) Staff recommends approval of the amendment to PlanDSM Creating Our Tomorrow Comprehensive Plan for the properties at 5907 Southeast 8th Street and 801 Hart Avenue, to revise the future land use classification from “Community Mixed Use” within a Regional Node to “Low Density Residential” within a Regional Node.

Part C) Staff recommends approval of an amendment to the submitted Large-Scale Development Plan, subject to provision of a note that states the development will comply with the conditions of any Ordinance to rezone the property from Limited “CX-V” District to Limited “CX-V” District.

Part D) Staff recommends approval of the request to rezoning the properties at 5907 Southeast 8th Street and 801 Hart Avenue from “Limited “CX-V” District to “N3a” Neighborhood District; and

Staff recommends approval of the request to rezone the balance of the site from Limited “CX-V” Mixed Use District to Limited “CX-V” District, so long as the conditions contained in Ordinance at 15,929 are replaced with 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 on May 6, 2021.

2. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.

3. Any new 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.

SUMMARY OF DISCUSSION
Bert Drost presented staff report and recommendation.

Nick Brenner 5101 Menard Drive, Wisconsin representing Menards stated with all the changes and development done on site, they have determined they’re able to save 2 houses. They are planning to rent these homes out and will invest on fixing them up to provide a nice place for someone to live. They would like to have some leniency on landscape island within the parking lot as they plan to keep the store open during the expansion and rather not rip up the parking lot.

CHAIRPERSON OPENED THE PUBLIC HEARING
None were present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING
Will Page asked about the reference to 8 evergreen trees and 4 over-story trees in the staff recommendation and how it did or did not related to the graphic from the applicant.

Bert Drost stated when Menards did their expansion to the north 10 years ago, they had a condition requiring 8 evergreen trees and 4 over-story trees per 100 feet along the north property line. Staff listed those within the condition so the previous imposed condition carried forward.

Will Page asked for clarification around the islands shown on the current plan.

Bert Drost stated they currently have islands at the end of the rows with some cart corrals in the middle. The current landscape standards require 1 landscape island for every 8 parking spaces.

Jason Van Essen stated staff understands that you can’t always do 8 in a row perfectly so there would be an administrative process to see if there would be any practical difficulties in complying with that condition and that staff would work with the applicant.
COMMISSION ACTION:

Will Page made a motion for:

Part A) The Commission find the requested rezoning is not in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as "Low Density Residential" in a Regional Node.

Part B) Approval of the amendment to PlanDSM Creating Our Tomorrow Comprehensive Plan for the properties at 5907 Southeast 8th Street and 801 Hart Avenue, to revise the future land use classification from “Community Mixed Use” within a Regional Node to “Low Density Residential” within a Regional Node.

Part C) Approval of an amendment to the submitted Large-Scale Development Plan, subject to provision of a note that states the development will comply with the conditions of any Ordinance to rezone the property from Limited “CX-V” District to Limited “CX-V” District.

Part D) Approval of the request to rezoning the properties at 5907 Southeast 8th Street and 801 Hart Avenue from “Limited “CX-V” District to “N3a” Neighborhood District; and Approval of the request to rezone the balance of the site from Limited “CX-V” Mixed Use District to Limited “CX-V” District, so long as the conditions contained in Ordinance at 15,929 are replaced with 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 on May 6, 2021.

2. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.

3. Any new 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.

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

Item 12

Request from Wesley Retirement Services Inc (owner) represented by Rob Kretzinger (officer) for review and approval of a PUD Final Development Plan “Wesley Acre – Site Improvement Plan” on property located at 3520 Grand Avenue, to allow building additions for the north and west entries with reconfiguration of the adjacent parking lot areas including extension of parking to the north toward Grand Avenue, a building addition for swimming pool and auditorium use on the west, a terrace/pond landscape feature in the north side of the site, and renovation of the central courtyard area. (10-2021-7.56)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed “PUD” Final Development Plan would allow for construction of building additions and site revisions that are allowed by the amendment to the Wesley Acres Legacy “PUD” Conceptual Plan.

2. Size of Site: Approximately 12 acres.

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

4. Existing Land Use (site): High-density residential retirement living campus, to include a healthcare facility and adult and children daycare centers.
5. **Adjacent Land Use and Zoning to Site of Amendment:**

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

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

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Greenwood Historic Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 16, 2021 and by the Final Agenda on April 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 26, 2021 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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

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

   On March 8, 2021, the City Council approved an amendment to the Wesley Acres “PUD” Conceptual Plan, to allow low building additions for the north and west entries with reconfiguration of the adjacent parking lot areas including extension of parking to the north toward Grand Avenue, to allow a building addition for resident swimming pool and auditorium use on the west, to allow a terrace/pond landscape feature in the north side of the site, to allow expansion of the existing parking lot within the front yard area along 37th Street, to allow renovation of the central courtyard area, to allow expansion of beer, wine and liquor service within the Chamberlain Mansion and within all other dining service areas, to remove Children’s Garden and Preschool use as a permitted use, and to revise list of
permitted accessory uses to include restaurant, assembly/event space, residential support service, studio or instructional service, adult daycare, and indoor sports/recreation.

The Council’s approval on March 8, 2021 included the following conditions:

1. All stucco shown on the building elevations shall meet the standards necessary to be considered "Major Fa9ade Material", as contained in City Code Chapter 135;
2. All brick shown on the building elevations shall be full-dimensional brick and not thin brick;
3. Provision of a note to state that any refuse collection container will be within an enclosure constructed of masonry walls that match the primary building and steel gate;
4. The off-street parking lot within the western portion of the "PUD" Conceptual Plan shall not extend any closer to the front property line along 37th Street than the existing "Wesley Bolton" building and shall not include a drive approach from 37th Street;
5. All lighting used to illuminate off-street parking areas shall use full-cutoff directional lighting to prevent glare and light spillover onto streets and abutting N-zoned lots;
6. Any new parking area shall be landscaped with the buffer being reviewed and approved by the Plan and Zoning Commission during the Development Site Plan review. This requires side and rear buffer plantings to lessen the impact of any parking on adjoining residential properties;
7. Any future PUD Final Development Site Plan for the site shall require certification by a licensed engineer that the stormwater basin on the southern portion of the site functions as designed;
8. Provision of a note that states any sale or service of alcoholic liquor, wine and/or beer shall be in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council; and
9. Compliance with all administrative review comments of final "PUD" Conceptual Plan documents; and
10. The property owner shall be required to annually submit a storm water detention maintenance report to the City Storm Water Utility to demonstrate continued functional operation of the approved storm water management improvements. In the event that said report does not demonstrate continued functional operation, the property owner shall comply with City recommendations to repair or maintain said improvements within a timeline approved by the City’s Public Works Director or be subject to public nuisance or similar legal action by the City and the landscaping plan will be executed in advance of any Certificate of Occupancy.

9. **PlanDSM Creating Our Tomorrow Designation:** High Density Residential.
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. Urban Design: The proposed elevations comply with the elevations contained on the approved “PUD” Conceptual Plan. The proposed building additions would be constructed to blend with the current surrounding building materials. It indicates that the additions would be sided with a combination of prefinished metal flashing, synthetic stucco, facebrick, and aluminum storefront. The “PUD” Final Development Plan states that all stucco shown on the building elevations shall meet the standards necessary in order to be considered as a “Major Façade Material”, as regulated in City Code Chapter 135 and that all brick shown on the building elevations shall be full-dimensional brick and not thin brick.

2. Off-Street Parking: The proposed “PUD” Final Development Plan demonstrates that existing off-street parking lots would be slightly reconfigured to accommodate the proposed building additions. It does not propose any modifications to the parking area to the north of the Bolton Building, as the approved “PUD Conceptual Plan includes a statement that off-street parking lot within the western portion of the "PUD" Conceptual Plan shall not extend any closer to the front property line along 37th Street than the existing "Wesley Bolton" building and shall not include a drive approach from 37th Street. The proposed “PUD” Final Development Plan also includes a note stating that all lighting used to illuminate off-street parking areas must use full-cutoff directional lighting to prevent glare and light spillover onto streets and abutting N-zoned lots.

3. Landscaping: The proposed “PUD” Final Development Plan demonstrates significant landscaping and plantings throughout the site.

The approved “PUD” Conceptual Plan includes a condition requires that any new parking area to be landscaped with the buffer that is reviewed and approved by the Plan and Zoning Commission during this current “PUD” Final Development Plan review. This requires side and rear buffer plantings to lessen the impact of any parking on adjoining residential properties.

In order to minimize impacts to the properties adjacent to the west at 315 and 321 37th Street, the proposed “PUD” Final Development Plan provides a mix of 8 shade streets and 31 evergreen trees along the 285 feet of property line that the applicant shares with these two properties. This equates to 3.40 shade trees and 10.88 evergreen trees per 100 linear feet. This is in excess of the standards applicable for a “Heavy Landscape Buffer”, which requires 2 shade trees and 6 evergreen trees per 100 linear feet. Staff believes that the proposed placement, quantity, and variety of species will ensure that a substantial buffer is provided in this area.
4. Drainage/Grading: The proposed “PUD” Final Development Plan demonstrates that improvements will be made to the existing south detention basin and a new north pond will be constructed to ensure that the future storm water runoff will not exceed the existing runoff rate.

The “PUD” Development Plan states that the proposed design of the south detention basin has been designed to be in compliance with current City Codes and specifications, and certified by an Iowa-licensed engineer. The owner shall have Bishop Engineering perform an as-built survey for the improvements made to the south detention basin and storm sewer after construction is completed to certify that the basin and associated infrastructure has been constructed in accordance with the approved site plan and storm water management plan. Certification by a licensed engineer that the south detention basin functions as designed shall be provided to the City prior to issuance of a Certificate of Occupancy for any site improvements allowed by this PUD Development Site Plan.

The “PUD” Development Plan also states that the property owner is required to annually submit a storm water detention maintenance report to the City storm water utility to demonstrate continued functional operation of the approved stormwater management improvements. In the event that said report does not demonstrate continued functional operation, the property owner shall comply with City recommendations to repair or maintain said improvements within a timeline approved by the City’s Public Works Director or be subject to the public nuisance or similar legal actions by the City and the landscaping plan will be executed in advance of any Certificate of Occupancy. The first of these annual reports shall be submitted to, reviewed by, and approved by the City Storm Water Utility prior to issuance of a Certificate of Occupancy for any site improvements allowed by this PUD Development Site Plan. The annual stormwater reports will be submitted to NID (Neighborhood Inspections Division) for compliance review via email at NID@DMgov.org.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed Wesley Acres “PUD” Final Development Plan, subject to compliance with all administrative review comments.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Darren Schlapkohl 5508 NW 88th Street, Johnston, IA representing Wesley Life stated they have done a lot of work to make sure they are exceeding the recommendations and requests of everyone involved. They have had conversation with Kevin Macfee about their landscape plans and also plan to have more conversation with Scott Carlson to go through the same exercise with him as they did with Mr. Macfee.

CHAIRPERSON OPENED THE PUBLIC HEARING
None were present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jann Freed stated this has been a very controversial development within the neighborhood so it’s great to see collaboration and accommodations regarding the neighbors’ concerns.

**COMMISSION ACTION:**

Rocky Sposato made a motion for approval of the proposed Wesley Acres “PUD” Final Development Plan, subject to compliance with all administrative review comments.

**THE VOTE: 12-0**

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Committee and Director’s Reports:

Dory Briles stated at the May 20th meeting, there will be a 5:30pm session regarding text changes to Chapters 134 and 135 of the City Code. Noted that Erik Lundy has accepted the Zoning Enforcement Officer position effective June 1st.

Erik Lundy stated it has been a pleasure working with the Commission all these years. As the Zoning Officer, there will be opportunities to be involved with the commission in the future.

Will Page extended a congratulation to Jason Van Essen, Bert Drost and Mike Ludwig on their new roles within the City in addition to Erik. He asked for a new organizational chart be sent out to commissioners.

Jason Van Essen stated staff will send out a new organizational chart. Noted we are expecting in-person meetings to start July 1st and working on providing social distancing protocols and different aspects for safety. Following the presentation of text amendments on May 20th, staff will have the amendments before the commission for consideration on June 3rd.

Meeting adjourned at 7:45pm