The May 20, 2021 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 898 6833 1779


P&Z ABSENT: Francis Boggus and Rocky Sposato

STAFF PARTICIPANTS: Jason Van Essen, Tyler Hall, Laura Peters, Kyle Larson, Judy Parks-Kruse, Erik Lundy and Anuprit Minhas.

Jann Freed made a motion to approve the May 6, 2021, Plan and Zoning Commission meeting minutes. Motion carried 9-0-2 (Emily Webb and Greg Wattier abstained as they were not present for the May 6 meeting).

Dory Briles stated the applicant for item #4 has requested a continuance to the June 17, 2021, Plan and Zoning Commission meeting.

Emily Webb made a motion to continue item #4 to the June 17, 2021 meeting. Motion Carried 11-0

Jason Van Essen stated the commercial rezoning that is needed for item #9 has yet to be approved by City Council so the land is still zoned residential. This item will need to be continued to the June 3rd meeting to allow time for Council to take action.

Dory Briles stated the applicant for item #14 and item #15 have requested a continuance to the June 3, 2021, Plan and Zoning Commission meeting to allow time for neighborhood outreach.

Will Page made a motion to continue items #9, #14 and #15 to the June 3, 2021 meeting. Motion Carried 11-0

Dory Briles asked if any members of the public or the Commission wished to speak on consent agenda items #1, #2, #3, #5, #6 or #7. No one was present or request to speak.

Jann Freed made a motion to approve consent agenda items #1, #2, #3, #5, #6, and #7. Motion Carried 11-0 for item #1, #2, #3, #5, and #6. Motion Carried 10-1 (Johnny Alcivar voted in opposition) for item #7

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from ILEX Group, Inc. (owner) represented by Ben Schultes (officer) for the following on property located in the vicinity of 4600 East 14th Street.
A) Review and approval of a Preliminary Plat “Northridge 80/35 Business Park”, to allow 59.57 acres of property to be divided into 5 Lots for business park development.  

(13-2021-1.28)

B) Review and approval of a PUD Final Development Plan “Northridge 80/35 Business Park - Plat 1”, to allow development of two Warehouse/Flex Buildings totalling 822,053 square feet (18.87 acres) with associated parking and loading areas.  

(10-2021-7.72)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed preliminary plat would divide the PUD into five (5) lots that would each contain a single flex warehouse building at full buildout. The submitted final development plan consists of Lots 1 and 2 with their associated buildings and site improvements. Lots 1 and 2 are located in the southwest portion of the PUD and would have frontage along East Broadway Avenue.

2. Size of Site: The proposed preliminary plat contains the entire PUD, which measures 59.57 acres. The final development plan encompasses 18.87 acres.


5. Adjacent Land Use and Zoning:

   North – Polk County “MU” Mixed Use District: Use is Interstate 35/80.

   South - “Casey’s PUD” & “I1”: Uses are a convenience store and light industrial.

   East - Polk County “MU” Mixed Use District and Polk County “GC” General Commercial District: Uses are commercial and industrial.

   West - Polk County “MU” Mixed Use District: Uses are commercial and residential.

6. General Neighborhood/Area Land Uses: The site is located at the southwest corner of the East 14th Street and Interstate 35/80 interchange. The area consists of industrial, commercial and residential uses, as well as undeveloped land.

7. Applicable Recognized Neighborhood(s): The subject property is located within the Highland Park Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on April 30, 2021 and the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item was mailed on May 10, 2021 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. The Highland
Park Neighborhood Association mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

8. **Relevant Zoning History:** The Northridge PUD was approved by the City Council on April 6, 1987, by Roll Call 87-1330. The first amendment to the PUD Conceptual Plan was approved by the City Council on March 23, 2020, by Roll Call 20-0577. The amendment changed the PUD from a traditional shopping mall concept to a flex warehouse development. It was reviewed by the Plan and Zoning Commission on February 20, 2020.

9. **PlanDSM Future Land Use Plan Designation:** Industrial in a Regional Node.

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.

    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. **Access:** When completely built-out, the entire development would have one (1) drive approach along East 14th Street and four (4) approaches along East Broadway Avenue. Phase 1 would be located in the southwest corner of the lot and would have two (2) drive approaches along East Broadway Avenue. A gated access point for emergency vehicles only is proposed at the west edge of the Phase 1 area providing emergency to NE 47th Place. A secondary access point is required by the Fire Code since the driveways proposed from East Broadway Avenue are close together. Sidewalks are proposed within the development and along the street for pedestrian circulation.

2. **Stormwater Management:** All grading is subject to an approved grading permit and soil erosion control plan. The applicant is required to demonstrate compliance with the City’s Stormwater Management requirements to the satisfaction of the City’s Permit and Development Center.
The proposed preliminary plat and final development plan are designed to utilize an existing Polk County storm water basin that is located to the west. The applicant and the County are working on a formal agreement with the City. Since the agreement has not been finalized, staff recommends approval subject to the conditions listed in Section III of this report. Items that need to be completed before the site plan can be finalized and permits issued include the following:

- Execution of an agreement between all parties regarding the use of the Polk County drainage basin by the proposed development.
- Receipt of all needed DNR permits and an Emergency Action Plan.
- Documentation that all approvals have been granted.

3. **Urban Design:** The proposed buildings would be constructed of precast concrete panels. A three-color scheme would be used to provide visual interest. Additionally, horizontal and vertical line patterns would be provided in the panels to visually break up the mass of the buildings. Four (4) of the buildings would be oriented north-to-south with frontage along East Broadway Avenue. The proposal complies with the approved PUD Conceptual Plan.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the proposed preliminary plat, subject to the following conditions:

1. Compliance with all administrative review comments.

2. Execution of all necessary agreements between the applicant, Polk County and the City of Des Moines allowing the Polk County basin to be utilized to serve the proposed development.

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

1. Compliance with all administrative review comments.

2. Execution of all necessary agreements between the applicant, Polk County and the City of Des Moines allowing the Polk County basin to be utilized to serve the proposed development.

**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:

Part A) **Approval** of the proposed preliminary plat, subject to the following conditions:

1. Compliance with all administrative review comments.
2. Execution of all necessary agreements between the applicant, Polk County and the City of Des Moines allowing the Polk County basin to be utilized to serve the proposed development.

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

1. Compliance with all administrative review comments.
2. Execution of all necessary agreements between the applicant, Polk County and the City of Des Moines allowing the Polk County basin to be utilized to serve the proposed development.

**THE VOTE:** 11-0

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Item 2

Request from Zion Capitol Group, LLC (owner) represented by Ryan Campos (officer) for the following regarding the property located at 2453 East Grand Avenue.

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use. (21-2021-4.12)

C) Rezone property from “N3c” Neighborhood District to “RX1” Mixed Use District, to allow reuse of the existing building for mixed residential and commercial use. (ZON2021-00023)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking the rezoning in order to allow re-establishment of a mixed-use building with commercial use on the main floor and upper level multi-household living use. Previous legal non-conforming rights to these uses were determined lost by Zoning Enforcement on February 11, 2021 upon an extended vacancy of the building beyond 12 months.

2. Size of Site: 70 feet by 150 feet (10,500 square feet).

3. Existing Zoning (site): “N3c” Neighborhood District.

4. Existing Land Use (site): The property includes a two-story 5,132-square foot building built for commercial or mixed-use. There is an 18-foot by 40-foot detached garage on the south end of the property along the east/west alley.

5. Adjacent Land Use and Zoning:
   
   East - “P2”; Use is Fraternal Organization.
   
   West - “N3c”; Uses are One Household Living dwellings.
   
   North - “N3c”; Uses are One Household Living dwellings.
   
   South - “P2”; Use is Worship Assembly.

6. General Neighborhood/Area Land Uses: The subject property is located in an area that is developed primarily with One Household Living residential uses, with commercial structures scattered throughout.

7. Applicable Recognized Neighborhood(s): The subject property is in the Fairground Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed April 30, 2021 (20 days prior to the hearing) and May 10, 2021 (10 days prior to the hearing) to the Fairground Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fairground Neighborhood Association notices were mailed to Laura Mundy, PO Box 473, Pleasant Hill, IA 50327.
The applicant can provide a summary of their required neighborhood outreach at the public hearing.

8. Relevant Zoning History: On December 15, 2019, the property was rezoned to “N3c” Neighborhood District with the update of the citywide Zoning Map.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The existing Low Density Residential designation is described as follows:

   **LOW DENSITY RESIDENTIAL**
   Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

In order to find the proposed rezoning in conformance with PlanDSM, staff believes that the requested amendment to designate the future land use to Community Mixed Use would also be necessary. Community Mixed Use is described as follows:

   **NEIGHBORHOOD MIXED USE**
   Small-scale mixed-use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service-oriented development. Low-medium density residential may be included in mixed use development.

The property is surrounded by remaining Low Density Residential designation but is abutting two civic uses, including a Fraternal Organization use to the east and a Worship Assembly use to the south. The subject property was most recently used for mixed-use until it went vacant and lost its non-conforming rights. It is 2-stories and is configured for mixed use. Conversion to a one household dwelling under House Type C requirements would not be very practical. The building was originally built with a storefront to the street. Converting the building to multi-household living use would require significant investment for accessibility and fire protection improvements.
The Neighborhood Mixed Use category allows residential density up to 12 units per acre which would allow for three units on the property. The building has been configured for 4 units at one point in time. Should the Commission determine that the building should be able to allow 4 units then an amendment to Community Mixed Use should be recommended which would allow for up to 17 units an acre. Staff believes that the Neighborhood Mixed Use would be most appropriate and, therefore, limit the number of Household Living units on the property to a maximum of three (3).

2. **Additional Information:** The subject property has an enforcement history dating back to 2001 that includes violations, such as storage of inoperable vehicles, storage of junk/debris on the property or on adjoining Right-Of-Way. The most recent rental certificate activity was for renewals filed in 2016. This renewal has expired and not been renewed.

Should the property be rezoned for allowance of the mixed-use, the conversion triggers the subsequent need for Site Plan compliance for the entire site with the Permit and Development Center.

Staff recommends that any rezoning of the property to “RX1” Mixed Use District be made subject to the following:

1. Any Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to “RX1” Districts and either the Commercial Cottage or General Building Type, including landscaping and paving requirements, within one year of the approval of the rezoning.

2. Any buildings on site shall be kept in good repair to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.

3. The number of Household Living units on the property shall not exceed three (3) units.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning be found in **not** in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Staff recommends approval of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of rezoning the property to a Limited “RX1” Mixed Use District subject to the following conditions:

1. The Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to “RX1” Districts and either
the Commercial Cottage or General Building Type, including landscaping and paving requirements, within one (1) year of the approval of the rezoning.

2. Any buildings on site shall be kept in good repair to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.

3. The number of Household Living units on the property shall not exceed three (3) units.

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:

Part A) the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Approval of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Neighborhood Mixed Use.

Part C) Approval of rezoning the property to a Limited “RX1” Mixed Use District subject to the following conditions:

1. The Site shall be brought into full conformance and kept in accordance with an approved Site Plan under requirements as applicable to “RX1” Districts and either the Commercial Cottage or General Building Type, including landscaping and paving requirements, within one (1) year of the approval of the rezoning.

2. Any buildings on site shall be kept in good repair to the satisfaction of the Zoning Enforcement Officer and Neighborhood Inspections Division Administrator.

3. The number of Household Living units on the property shall not exceed three (3) units.

THE VOTE: 11-0

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Item 3

Request from Joe Harrison (owner) for review and approval of a Public Hearing Site Plan for the following 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 2500 Thornton Avenue, to allow an existing unimproved driveway to remain in addition to a driveway required as part of a permitted attached garage in an "N3a" Neighborhood District where only one driveway is permitted per Section 135-2.14.3(A)(11). (SAP2021-00061)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has finished construction of an attached garage on the rear of the house and is now seeking to install a driveway to provide vehicle access to the garage. The new paved driveway would be installed on the west side of the house. The applicant is asking to retain the existing gravel parking pad in front of the house.

2. Size of Site: 90,251 square feet.

3. Existing Zoning (site): N3a, Neighborhood District.

4. Existing Land Use (site): Low Density Residential.

5. Adjacent Land Use and Zoning:

   North – "N3a"; Low Density Residential.
   South – "N3a"; Low Density Residential.
   East – "N3a"; Low Density Residential.
   West – "N3a"; Low Density Residential.

6. General Neighborhood/Area Land Uses: The subject property is located in a predominately low-density residential neighborhood.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on April 30, 2021 and the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the hearing) and on May 10, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

   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 Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.
8. Relevant Zoning History: N/A.


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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
• Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and

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

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

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

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

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

    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 2 Design Alternative Requested: To allow two residential driveways and drive approaches where only one driveway is permitted.** Section 135-2.14.3(A)(11) allows for one paved driveway per lot. The applicant has finished construction of an attached garage on the rear of the house and is now seeking to install a driveway to provide vehicle access to the garage. The new paved driveway would be installed on the west side of the house. The applicant is asking to retain the existing gravel parking pad in front of the house.

2. **Staff Analysis:** Thornton Avenue is a narrow street that is constructed similar to a rural roadway cross section rather than an urban cross section with curb and gutter. The street does not provide ample width for safe on-street parking. Staff believes that the gravel parking pad should be allowed to remain in order to provide an additional parking option for the residents and their guests and that the new driveway should also be allowed to provide vehicle access to the new attached garage in the rear of the home.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to install a driveway to provide vehicle access to the new attached garage and also retain the existing gravel parking pad in front of the house subject to the condition that the gravel parking pad may be retained so long as it is not modified or expanded.

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 to install a driveway to provide vehicle access to the new attached garage in addition to retaining the existing gravel parking pad in front of the house subject to the condition that the gravel parking pad may be retained so long as it is not modified or expanded.
THE VOTE: 11-0

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Item 5

Request from Terrace Hill I, LLC (owner) represented by Doug Saltsgaver (officer) for the following regarding the property located at 2525 Grand Avenue.

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

B) Rezone property from “RX2” Mixed Use District to “MX3” Mixed Use District, to allow the existing building to be considered for a Conditional Use approval by the Zoning Board of Adjustment for a Bar associated with reuse of the property for a Hotel. (ZON2021-00048)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The building is planned for conversion from a multi-family use to a hotel use. The rezoning would allow the property to be eligible to request a Conditional Use approval by the Zoning Board of Adjustment for a bar use associated with the hotel use.

2. Size of Site: 44,910 square feet or 1.03 acres.


4. Existing Land Use (site): The site contains a three-story building that was originally constructed for a hotel use and later converted a multi-family residential use.

5. Adjacent Land Use and Zoning:

   North – “MX3”; Use is a restaurant (former Abelardo’s Mexican Restaurant, which is being converted to Starbucks).

   South – “RX2”; Uses include a 1-story office building, Grand Avenue, and a 4-story office building.

   East – “MX2”; Use is a 4-story office building.

   West – “MX2”; Uses are retail (Dollar General) and restaurant (Taco Johns).
6. **General Neighborhood/Area Land Uses:** The subject property is located between the Ingersoll Avenue and Grand Avenue corridors, which contain a mix of commercial and multiple-family residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is within 250 feet of the Woodland Heights Organization Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the January 21, 2021 public hearing) and May 20, 2021 (10 days prior to the January 21, 2021 public hearing) to the Woodland Heights Organization and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Woodland Heights Organization notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

   The applicant mailed the required neighborhood outreach letter on April 20, 2021. They will be available to provide a summary of those communications at the hearing.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**
   Community Mixed Use within Neighborhood Nodes centered along Ingersoll Avenue at both 23rd Street and 28th Street.

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 “Community Mixed Use” and located in a "Neighborhood Node" on the Future Land Use Map. Plan DSM describes these designations as follows:

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

**Neighborhood Node:** These nodes are the smallest in size and offer services that provide for basic daily needs of the local population in the surrounding neighborhood. May include restaurants, shops and smaller scale businesses. Residential development including low-medium and medium densities may occur.

The applicant is proposing to rezone the property from “RX2” District to the “MX3” District. The “RX3” District would allow the property to be eligible to request a Conditional Use approval by the Zoning Board of Adjustment for a bar use associated with the hotel use. Furthermore, the appellant has requested the “MX3” District instead of the “MX2” District since the “MX2” District only allows a hotel use on the upper stories of a building.

The Zoning Ordinance states that the “MX3 is intended for mixed-use, nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobiles. This district accommodates higher intensity uses at a smaller scale.” Building types allowed in this district include Storefront, Commercial Cottage, Commercial Center, Civic Building and Principal Use Parking Structure.

Staff believes that the proposed “MX3” District is appropriate for the character of the area so long as permitted and conditional uses are limited to either any use as permitted and limited in the “RX2” District, or a bar use associated with a hotel use.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use” within a “Neighborhood Node.”

Part B) Staff recommends the subject property be rezoned from “RX2” Mixed Use District to “MX3” Mixed Use District, subject to the following conditions:

1) Permitted and Conditional Uses shall be limited as follows:
   a. Any use as permitted and limited in the “RX2” District, or
   b. A bar use associated with a hotel use.

### 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:

Part A) the proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use” within a “Neighborhood Node.”

Part B) Approval of rezoning the subject property from “RX2” Mixed Use District to “MX3” Mixed Use District, subject to the following conditions:

1) Permitted and Conditional Uses shall be limited as follows:
   a. Any use as permitted and limited in the “RX2” District, or
   b. A bar use associated with a hotel use.

THE VOTE: 11-0

Item 6

Request from Damian Jacinto Sanchez (owner) represented by Jason Juran (builder) for review and approval of a Public Hearing Site Plan for the following 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 1416 East 36th Court, to allow 575 square feet of impervious area within the front yard area as part of a new House B Building Type in an "N3b" Neighborhood District which is 37 square feet (10%) over the maximum 25% of the front yard area permitted per Section 135-2.14.3(E)(1). (BLD2020-02862)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant recently purchased a new construction home on the subject property. The builder provided a site plan with the building permit application that showed a 12-foot wide driveway to a single-car garage. The builder pre-sold the home to the applicant, who requested an additional parking pad to keep a vehicle off the street. The builder added a parking pad roughly 19 feet by 6 feet, with tapered edges, alongside the driveway, unaware of the front yard impervious surface requirements. This brought the total front yard impervious area surface to 35%, which is 10% more than allowed by code. The applicant is asking to retain the parking pad as constructed.

2. Size of Site: 6,560 square feet or 0.151 acres.
3. **Existing Zoning (site):** “N3b” Neighborhood District.

4. **Existing Land Use (site):** Single-household dwelling.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N3b”; Use is a single-household dwelling.
   - **South** – “N3b”; Use is a single-household dwelling.
   - **East** – “N3b”; Uses are single-household dwellings.
   - **West** – “N3b”; Uses are single-household dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Gray’s Woods Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 30, 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 May 10, 2021 (10 days prior to the public hearing) to the Gray’s Woods Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Gray’s Woods Neighborhood mailings were sent to Karen Shoopman, 3804 Indianapolis Avenue, Des Moines, IA 50317.

8. **Relevant Zoning History:** On December 17, 2021, the Commission voted to waive the required public sidewalk installation per Section 135-8.5.2.A during the original review of the subject house.

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

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

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

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

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

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation’s intended purpose and greater consistency with the
consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

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

2. Type 2 Design AlternativeRequested: Allow impervious surface in excess of the maximum allowed area of 25%. Section 135-6.12.3 of the Planning and Design Ordinance states “for one and two household unit buildings in N or NX Districts the minimum driveway width is eight feet and no more than 25% of the front yard shall be used for driveway and off-street parking purposes from a paved access. This shall not prohibit construction of a 20-foot wide driveway, or a driveway expansion immediately in front of, and the minimum width reasonably necessary to provide access to a three or four car garage from a paved access.” The existing driveway and parking pad is an impervious surface that is 35% of the front yard area and exceeds the maximum 32.5% of impervious area that can be granted by staff with a Type 1 Design Alternative.

3. Staff Analysis: The builder provided a site plan with the building permit application that showed a 12 feet wide driveway during the original permitting process. When the final inspection was completed, the zoning inspector identified that the driveway and parking pad violated the approved site plan. The applicant requests to retain the driveway and parking pad without having to reduce the width to comply with the code requirement.

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

In evaluating the character of the surrounding neighborhood, several of the surrounding houses have wide driveways and parking for additional vehicles within the front yard. Staff does not believe it is out of character with the surrounding neighborhood for the subject property to have the additional front yard impervious surface. Additionally, the parking pad was tapered to meet the existing driveway, minimizing the visual impact.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to retain the driveway as constructed.

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 to retain the driveway as constructed.

THE VOTE: 11-0
Item 7

Request from Bryan Cole (owner) for review and approval of a Public Hearing Site Plan for the following 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 917 Lewis Avenue, to allow construction of a House Type D in an “N5” Neighborhood District with waiver of the required public sidewalk installation on Southwest 10th Street and Lewis Avenue frontages.

(BLD2021-00632)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct an 1,837-square foot single-family house on a corner lot with two street frontages along Lewis Avenue and Southwest 10th Street. The house is proposed with a front entrance facing Southwest 10th Street.

The applicant is asking for waiver of the standard that requires them to construct a public sidewalk along Southwest 10th Street and Lewis Avenue. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 82 feet by 122 feet (9,982 square feet or 0.229 acres).

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

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

5. Adjacent Land Use and Zoning:

- North – “N5”; Use are single-household dwellings.
- South – “N5”; Uses are Lewis Avenue and single-household dwellings.
- East – “N5”; Uses are single-household dwellings.
- West – “N5”; Uses are Southwest 10th Street and single-household dwellings.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Watrous South Neighborhood and within 250 feet of the Southwestern Hills Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item
were mailed on May 10, 2021 (10 days prior to the public hearing) to the Watrous South and Southwestern Hills Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Watrous South Neighborhood mailings were sent to James Spiller, P.O. Box 35845, Des Moines, IA 50315. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: N/A.


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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

  Ø 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 to allow decrease of overall height by 0.5 story. This standard can be found in Section 135-2.16.3.B.12 of the Planning and Design Ordinance.

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

2. Traffic and Circulations Standards: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.” MoveDSM, the City’s transportation plan makes closing gaps within the City’s sidewalk network a priority.

Proposed updates to the zoning code discussed with City Council at its May 3, 2021 Work Session suggests allowing a Type 1 Design Alternative to waive sidewalk installation for Priority 2 and 3 sidewalk gaps based if no existing or approved sidewalk adjoin subject property.

3. Staff Analysis: The applicant is proposing to construct a new single-family house on the corner lot. The Zoning Code requires provision of a 5-foot wide sidewalk along the two street frontages of Southwest 10th Street and Lewis Avenue. The applicant has requested waiver of this requirement.
An evaluation of the surrounding area shows that there is no sidewalk on Lewis Avenue between Southwest 9th on the east and Southwest 14th Street on the west. The street segment of Southwest 10th street between Elder Lane, a block north and Emma Avenue, a block south of the subject site is a gravel road. Additionally, MoveDSM identifies the sidewalk gaps on Lewis Avenue and SW 10th Street along the subject site as Priority 2 sidewalk gaps.

In light of the proposed changes to the zoning code that were discussed by the City Council and based on the findings of the sidewalk gap situation in the area, staff believes that the request meets the criteria for consideration of a waiver.

II. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to waive the sidewalk requirement along both street frontages of the subject site at 917 Lewis Avenue.

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 to waive the sidewalk requirement along both street frontages of the subject site at 917 Lewis Avenue.

THE VOTE: 10-1 (Jonny Alcivar voted in opposition).

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 4

Request from Zaccary Miller and Mason Terwilliger (owners) for review and approval of a Public Hearing Site Plan for the following 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 846 East Broad Street, to allow a second driveway in an "N3a" Neighborhood District for a House Type B where only one driveway is permitted per Section 135-2.14.3(A)(11). (SAP2021-00097)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has an existing driveway from East Broad Street that provides vehicle parking and access to the attached garage on the front of the house. The applicant is requesting to construct a second paved driveway that would be used to access the rear yard. Due to the grade change on the property, a separate driveway and retaining wall are necessary.

2. Size of Site: 67,880 square feet.

3. Existing Zoning (site): N3a, Neighborhood District.

4. Existing Land Use (site): Low Density Residential.

5. Adjacent Land Use and Zoning:

   North – “N3a”; Low Density Residential.
   South – “N3a”; Low Density Residential.
   East – “N3a”; Low Density Residential.
   West – “N3a”; Low Density Residential.

6. General Neighborhood/Area Land Uses: The subject property is located in a predominately low density residential neighborhood.

7. Applicable Recognized Neighborhood(s): The subject property is in the Indianola Hills Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on April 30, 2021 and the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the hearing) and on May 10, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

   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 Indianola Hills Neighborhood Association notices were mailed to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.

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

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

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

- The city’s comprehensive plan;

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

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

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

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

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

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
  - For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
  - The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
  - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
  - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
- Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

1. Type 2 Design Alternative Requested: To allow two residential driveways and drive approaches where only one driveway is permitted. Section 135-2.14.3(A)(11) allows for one paved driveway per lot. The applicant has an existing driveway from East Broad Street that provides vehicle parking and access to the attached garage on the front of the house. The applicant is requesting to construct a second paved driveway that would be used to access the rear yard.

2. Staff Analysis: 846 East Broad Street is a large parcel. The applicant wishes to construct a second driveway that will allow them to more easily access the rear yard. Due to the grade change on the property, a separate driveway is reasonably necessary.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to install a second driveway to provide vehicle access to the rear yard.

SUMMARY OF DISCUSSION

Dory Briles stated the applicant for item #4 has requested a continuance to the June 17, 2021, Plan and Zoning Commission meeting.

COMMISSION ACTION:

Emily Webb made a motion to continue item #4 to the June 17, 2021 meeting.

THE VOTE: 11-0

(Lisa Howard arrived at 6:25pm)

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Item 8

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)
Plan and Zoning Commission Minutes of Meeting
Des Moines, Iowa
May 20, 2021

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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 Southeast 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 not needed as a primary form of access to property not owned by the City.

   At the May 6, 2021 meeting the owner of 1520 Maury Street testified that he utilizes the north/south alley between Southeast 15th Court and Southeast Astor Street from Maury Street to Scott Avenue for access to his fencing for maintenance purposes. Planning staff has consulted with the Engineering Department and is recommending that an access easement be provided that would provide the neighbor the ability to maintain his fencing.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested right-of-way vacations subject to the provision of an access easement for fence maintenance purposes only for 1520 Maury Street.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Dale Jones 3700 Kinsey Avenue stated the recommendation from the City sounds good but he does have a problem as he will still need to maintain the fences at 609 SE 15th Court, 615 SE 15th Court, 627 SE 15th Court. He is also concerned with the drop of grade coming up to his fence due to grading on the MSC phase 2 site.

Jason Van Essen stated the project has started and has an approved grading plan, so there is nothing for the commission or staff to discuss on the grading. Regarding the other parcels Dale owns, the commission could make those part of their recommendation to City Council.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked what the address are for the properties in question.

Dale Jones stated 609 SE 15th Court, 613 SE 15th Court, 627 SE 15th Court and 1520 Maury Street.

COMMISSION ACTION:
Will Page made a motion approval of the requested right-of-way vacations subject to the provision of an access easement for fence maintenance purposes for 609 SE 15th Court, 613 SE 15th Court, 627 SE 15th Court and 1520 Maury Street.

THE VOTE: 12-0

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(Johnny Alcivar left at 7:00pm)

Item 9

Request from Fareway Stores, Inc. (owner) represented by Garrett Piklapp (officer) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 2716 Beaver Avenue and 2723 41st Place, to allow redevelopment of the existing vacant Storefront Type Building for Financial Service use and existing One Household Living dwelling for a 7,759-square foot Storefront Type Building for Limited Retail Sales use. (10-2021-7.48)

A) Allow one (1) entrance less than the two (2) required entrances on a primary frontage façade calculated at one entrance per 45 feet of primary frontage required per Section 135-2.5.3(D)(20).

B) Allow 41% transparency on the ground floor of the primary frontage façade which is 36.9% less than the minimum 65% of transparency required by Section 135-2.5.3(D)(18) calculated per Section 135-3.8.3.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The City Council acted on May 10, 2021 to continue the matter of the applicant’s requested rezoning of the property at 2723 41st Place, from “N4” Neighborhood District to “MX3” Mixed Use District, to their next meeting on May 24, 2021. Therefore, the consideration of a Site Plan including that property would not be able to be considered until such time as the rezoning would be approved. The disposition of the rezoning for that property is anticipated at that time, Staff would therefore recommend a continuance of the Site Plan consideration until the scheduled June 3, 2021 meeting of the Commission.

III. STAFF RECOMMENDATION

Staff recommends that the item be continued to the June 3, 2021 meeting of the Commission.

SUMMARY OF DISCUSSION
Jason Van Essen stated the commercial rezoning that is needed for item #9 has yet to be approved by City Council so the land is still zoned residential. This item will need to be continued to the June 3rd meeting to allow time for Council to take action.

COMMISSION ACTION:

Will Page made a motion to continue item #9 to the June 3, 2021 meeting.

THE VOTE: 11-0

Item 10

Request from Kyle Estling (owner) for review and approval of a Public Hearing Site Plan for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B), for property located at 4194 John Lynde Road, to allow construction of a new House D Building Type in an "N5" Neighborhood District. (BLD2021-00549)

A) Allow a front yard setback of 10.3 feet, which is 14.7 feet less than the minimum required setback of 25 feet per Section 135-2.16.3(A)(3).

B) Allow a maximum building coverage of 47.6%, which is 59% greater than the maximum building coverage of 30% per Section 135-2.16.3(A)(9).

C) Allow an attached garage entrance on the street facing façade when it is required to be on the rear or side facades per Section 135-2.16.3.(A)(10).

D) Allowing a clerestory roof type when it is required to have a pitched gable or hipped roof per Section 135-2.16.3(A)(22)

E) Allow a maximum front yard coverage of 60%, which is 35% greater than the maximum front yard coverage of 25% per Section 135-2.16.3(E)(2).

F) Waiver of the required public sidewalk installation per Section 135-8.5.2.
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new 2,790-square foot single-household dwelling on a lot after demolishing the existing single-household dwelling. The proposed house is two stories with a tuck-under garage and modern in design. The parcel is zoned N5 for a Type D house, while the houses to the east on John Lynde Road are zoned N1a for a Type A house. The applicant is requesting Type 2 Design Alternatives to build a modern-style house that would be in keeping with the Type A design standards. The parcel is 60 feet wide by 75 feet deep with a total area of 4,500 square feet. The applicant is also requesting Type 2 Design Alternatives to address challenges with the small parcel size and a Type 2 Design Alternative to waive the requirement for a public sidewalk.

2. Size of Site: 4,500 square feet or 0.10 acres

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


5. Adjacent Land Use and Zoning:

   North – “N5”; Use is a single-household dwelling.
   South – “N5”; Use is a single-household dwelling.
   East – “N1a”; Use is single-household dwelling.
   West – “N5”; Use is a single-household dwelling.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Salisbury Oaks Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 10, 2021 (10 days prior to the public hearing) to the Salisbury Oaks Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Salisbury Oaks Neighborhood mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312.

8. Relevant Zoning History: N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
• Consider the smart planning principles set forth in Iowa Code Chapter 18B.

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

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

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

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

    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. Attached Garage Entrance Location: Section 135-2.16.3.A.10 states that a garage in House Type D house must face the rear or side façade. Section 135-2.13.3.A.10 states that a garage may be located on any façade of House Type A. The pre-existing house has a garage that faces the street.

2. Permitted Roof Types: Section 135-2.16.3.D.22 states that House Type D is allowed to have a pitched gable or hipped roof, and a low-pitch is allowed on two-story buildings. Section 135-2.13.3.D.21 states that House Type A allows a parapet, low pitched, pitched, or flat roof. A clerestory roof is considered a pitched, non-gable roof and is therefore not allowed in a House Type D but is allowed for Type A.

3. Front Setback: A minimum front setback of 25 feet is required in an N5 District per Section 135-2.16.3.A.3. A minimum front setback of 45 feet is required in an N1a District per Section 135-2.13.3.A.3. The applicant is proposing a front setback of 10.3 feet, which closely matches the pre-existing house. This setback also aligns with the side yard setback of the adjacent house at 7 SW 42nd Street. John Lynde Road has an especially wide 66 feet right-of-way; the total distance of the proposed house to the curb is approximately 28 feet.

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

Section 135-2.16.3.A.9 states that a House Type D can have a maximum building coverage of 30%, and Section 135-2.16.3(E)(2) allows a maximum front yard coverage of 25%. The applicant is requesting a Type 2 Design Alternative to allow a maximum building coverage of 47.6% and a maximum front yard coverage of 60%. The proposed front yard coverage is similar to that of the pre-existing house. The maximum building coverage is a result of the small lot. A Type 1 Design Alternative was approved by staff for total lot impervious surface.
5. **Traffic and Circulations Standards**: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.” MoveDSM, the City’s transportation plan makes closing gaps within the City’s sidewalk network a priority.

Proposed updates to the zoning code discussed with City Council at its May 3, 2021 Work Session suggests allowing a Type 1 Design Alternative to waive sidewalk installation for Priority 2 and 3 sidewalk gaps based if no existing or approved sidewalk adjoin subject property.

6. **Approved Type 1 Design Alternatives**: The proposed 5-feet minimum side yard setback - a reduction of 29% - was approved by staff with a Type 1 design alternative per Section 135-9.2.3.A.3.

The proposed 55.7% maximum impervious area of the lot – 11.4% over the allowed maximum of 50% - was approved by staff with a Type 1 design alternative per Section 135-9.2.3.B.2.

House Type D requires a minimum 9’-feet floor-to-floor height of all stories per Section 135-2.16.3.B.14. A Type 1 design alternative was approved by staff to reduce the second level floor-to-floor height to 8’-1 1/8” per Section 135-9.2.3.A.5

7. **Staff Analysis**: Staff recognizes the unique constraints presented by the very small pre-existing lot size of only 0.10 acre, which make it difficult to construct a new house that would meet the requirements for front and back yard setback as well as maximum impervious surface and building coverage. Staff also recognizes that the existing houses on John Lynde Road and 42nd Street are an eclectic mix of traditional and modern-style homes. While the pre-existing house is more traditional in design, a modern house design as proposed is not out of character for this South of Grand neighborhood.

An evaluation of the surrounding area shows that there is no sidewalk on John Lynde Road east of 42nd Street. The topography of the parcel is elevated from the street, which would require retaining walls for the installation of a sidewalk. Additionally, John Lynde Road is identified as a Priority 2 sidewalk gap. In light of the proposed changes to the zoning code that were discussed by the City Council and based on the findings of the sidewalk gap situation in the area, staff believes that the request meets the criteria for consideration of a waiver.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternatives allowing the following:

A) A front yard setback of 10.3 feet, which is 14.7 feet less than the minimum required setback of 25 feet per Section 135-2.16.3(A)(3).
B) A maximum building coverage of 47.6%, which is 59% greater than the maximum building coverage of 30% per Section 135-2.16.3(A)(9).

C) An attached garage entrance on the street facing façade when it is required to be on the rear or side facades per Section 135-2.16.3.(A)(10).

D) A clerestory roof type when it is required to have a pitched gable or hipped roof per Section 135-2.16.3(A)(22).

E) A maximum front yard coverage of 60%, which is 35% greater than the maximum front yard coverage of 25% per Section 135-2.16.3(E)(2).

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

SUMMARY OF DISCUSSION

Laura Peters presented staff report and recommendation.

Kyle Estling 4194 John Lynde Road stated he purchased this property in early 2020 with the intent of a full renovation, which included increasing the height of the 2nd story. After meeting with the engineer, they noticed some foundation issues, along with bowing timber in the driveways retaining wall. With these added expenses, they felt the cost would be too great to renovate this home and started exploring options for new construction. The lot is significantly smaller than other lots in the area and the topography limits what they can feasibly do for construction. They did their best to stay within the footprint of the existing house but needed to push into the back yard to make it a feasible 3-bedroom floor plan.

CHAIRPERSON OPENED THE PUBLIC HEARING

Roger Scholten 4106 John Lynde Road stated he believes that City staff’s interpretation of the criteria should be more broadly viewed to include the structure, layout and character of the neighborhood, not just the design of the house. When you look at the mass of this unit and how close it is to the street, it is very inconsistent with other structures on the street. Expressed concern about the impact the proposed side yard setbacks would have on his property.

Marshall Linn 4101 John Lynde Road stated the houses on the south side of the street have obliged themselves by the proper setbacks and City Code when investing large sums of money to improve their properties. This proposal does not improve the character of the property nor the character of the neighborhood. He would strongly oppose this new structure and its many exceptions to the code.

Mark Stefl 1101 64th Street stated the reason for the 5-foot and 10-foot setbacks is to preserve the oak tree that sits along the west side of the property. Stated that other new construction projects are occluding in the South of Grand area. Noted that the average house size along the street is 3,196-square feet and that the existing house is 800 square feet in size. The average value in the neighborhood according to Polk County Assessors is $672,000 with this property currently at $140,000. They are trying to do their best with the land available and add value to the neighborhood.
Jann Freed asked why the neighbors were not informed until recently?

Laura Peters stated the City does not have a requirement for neighborhood outreach for site plan review as they do for a rezoning.

Jason Van Essen stated this is consistent with all Type 2 Design Alternative items on the agenda.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Greg Jones made a motion for approval of the requested Type 2 Design Alternatives allowing the following:

A) A front yard setback of 10.3 feet, which is 14.7 feet less than the minimum required setback of 25 feet per Section 135-2.16.3(A)(3).

B) A maximum building coverage of 47.6%, which is 59% greater than the maximum building coverage of 30% per Section 135-2.16.3(A)(9).

C) An attached garage entrance on the street facing façade when it is required to be on the rear or side facades per Section 135-2.16.3.(A)(10).

D) A clerestory roof type when it is required to have a pitched gable or hipped roof per Section 135-2.16.3(A)(22).

E) A maximum front yard coverage of 60%, which is 35% greater than the maximum front yard coverage of 25% per Section 135-2.16.3(E)(2).

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

**THE VOTE:** 8-3 (Abby Chungath, Carolyn Jension and Jann Freed voted in opposition)

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**Item 11**

Request from Gorkha Brothers, Inc. (lessee) represented by Sushil Gajmer (officer) for the following regarding the property located at 2829 Easton Boulevard. The subject property is owned by ARSHI, LLC (contract buyer of record) and Sandhu Minimart, LLC (titleholder).

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Neighborhood Mixed Use to Community Mixed Use. (21-2021-4.13)

C) Rezone property from “MX1” Mixed Use District to “MX3” Mixed Use District, to allow the existing building to be considered for a Conditional Use approval by the Zoning Board of Adjustment for a business selling alcoholic liquor. (ZON2021-00042)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The requested rezoning to “MX3” Mixed Use District would allow the existing fuel station convenience store use to be eligible to request a Conditional Use from the Board of Adjustment for sale of alcoholic liquor. They currently sell wine and beer. As a fuel station use, no more than 40% of gross receipts from sales could be derived from the sale of alcoholic liquor, wine, beer, and/or tobacco products.

2. Size of Site: 30,717 square feet or 0.71-acre.

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

4. Existing Land Use (site): The property includes a 4,800-square foot commercial building that is divided into two (2) tenant spaces. The eastern space is occupied by a fuel station convenience store and the western space is vacant. The property also includes a fuel canopy with two (2) pumps (4 fueling stations).

5. Adjacent Land Use and Zoning:

   East - “N3a”; Uses are One Household Living dwellings.

   West - “N3b”; Uses are One Household Living dwellings.

   North - “MX1” & “N3c”; Uses are a restaurant and One Household Living dwellings.

   South - “N3b”; Uses are One Household Living dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located in a small cluster of commercial uses located at the intersection of Easton Boulevard and East 29th Street. The surrounding area is developed primarily with One Household Living residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the ACCENT Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed April 1, 2021 (20 days prior to the hearing) and May 10, 2021 (10
days prior to the hearing) to the neighborhood association and to the primary
titleholder on file with the Polk County Assessor for each property within 250 feet of
the site.

All agendas and notices are mailed to the primary contact(s) designated by the
recognized neighborhood association to the City of Des Moines Neighborhood
Development Division on the date of the mailing. The ACCENT Neighborhood
Association notices were mailed to Kevin Marken, 2109 E 28th Street, Des Moines,
IA 50317.
The applicant was required to conduct a neighborhood outreach by written letter,
with a summary to be available for the hearing.

8. Relevant Zoning History: None.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The existing Neighborhood Mixed Use
designation is described as follows:

   **NEIGHBORHOOD MIXED USE**
   Small-scale mixed-use development typically located at the intersections of
collector and/or arterial streets and along transportation corridors. Non-residential
development is designed to serve the immediate neighborhood and include small
retail, offices, restaurants, and service-oriented development. Low-medium density
residential may be included in mixed use development.

In order for the proposed rezoning to “MX3” District to be in conformance with
PlanDSM, the future land use designation must be revised to Community Mixed
Use.

The Community Mixed Use designation is described as follows:

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

Staff does not believe that the Community Mixed Use designation would be appropriate for this site. The Community Mixed Use designation is intended to be located along high capacity transit corridors, such as University Avenue or Hubbell Avenue, and not along neighborhood collector streets, such as Easton Boulevard. Furthermore, the property is surrounded predominantly by areas designated as Low Density Residential on the Future Land Use Map.

2. **Additional Information:** Should the property be rezoned to “MX3” Mixed Use District, the existing fuel station use would be eligible to seek a Conditional Use from the Board of Adjustment that would allow for the sale of alcoholic liquor, in addition to the existing sales of wine beer. As a fuel station use, no more than 40% of gross receipts from sales could be derived from the sale wine, beer, and/or tobacco products.

**III. STAFF RECOMMENDATION**

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

Part B) Staff recommends **denial** of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use since the Community Mixed Use designation is intended to be located along high capacity transit corridors, such as University Avenue or Hubbell Avenue, and not along neighborhood collector streets, such as Easton Boulevard.

Part C) Staff recommends **denial** of rezoning the property to “MX3” Mixed Use District since the requested “MX3” District is not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.

**SUMMARY OF DISCUSSION**

Jason Van Essen presented staff report and recommendation.

Sushil Gajmer 2829 Easton Boulevard stated his lawyer could not attend the meeting tonight but understands the staff is recommending denial of the rezoning. Most of the houses around this property are single family but there are some rental units. He is not sure why this rezoning request is recommended for denial.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Carolyn Jension asked staff for their reasoning on the recommendation of denial.
Jason Van Essen stated of the three MX districts (MX1, MX2, and MX3), MX1 is the least intense with MX3 being the most intense and auto-dominate in character. If you look at the area, this is a small lot surrounded by single-family houses. This rezoning would require a Future Land Use Map amendment from the Neighborhood Mixed Use designation to the Community Mixed Use designation. The Community Mixed Use designation is intended for our most intense corridors such as University Avenue, Hubbell Avenue, Southeast 14th Street, Fleur Drive, and Army Post Road. Staff believes this does not match the character of Easton Boulevard, which is the basis of staff’s recommendation.

Carolyn Jension stated what she understands is they don’t want to change anything externally but just want to add the sale of liquor.

Jason Van Essen stated they want to add liquor but they cannot do that in the MX1 district.

Carolyn Jension stated its not changing anything on the exterior character.

Jason Van Essen indicated that no changes to the building are proposed but the request is to rezone the property to MX3, which allows different uses.

**COMMISSION ACTION:**

Emily Webb made a motion for:

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

Part B) **Denial** of the requested amendment to the PlanDSM future land use designation from Neighborhood Mixed Use to Community Mixed Use since the Community Mixed Use designation is intended to be located along high capacity transit corridors, such as University Avenue or Hubbell Avenue, and not along neighborhood collector streets, such as Easton Boulevard.

Part C) **Denial** of rezoning the property to “MX3” Mixed Use District since the requested “MX3” District is not in conformance with the existing PlanDSM future land use designation of Neighborhood Mixed Use.

**THE VOTE:** 11-0

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**Item 12**

Request from On Point Investments, LLC (owner) represented by Jennifer Echterling (officer) for the following regarding the property located at 2406 Woodland Avenue.
A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential in a Neighborhood Node to Medium Density Residential in a Neighborhood Node. (21-2021-4.14)

C) Rezone property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow use of the property for a Two Household Living dwelling. (ZON2021-00047)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow use of the property for a two-household dwelling. The property is currently only allowed to be used for a one-household dwelling since it lost legal non-conforming rights since the previous four-plex was vacant for a period longer than one year.

2. Size of Site: 7,000 square feet.

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

4. Existing Land Use (site): The property includes a vacant building that was originally constructed as a one-household dwelling, but later converted to four (4) dwelling units.

5. Adjacent Land Use and Zoning:
   
   North – “N5”; Use is a commercial office building.
   
   South – “N5”; Use is a one-household dwelling.
   
   East – “N5”; Use is a one-household dwelling.
   
   West – “N5”; Use is a vacant lot with a detached garage.

6. General Neighborhood/Area Land Uses: The subject property is located along the south side of Woodland Avenue just to the southwest of Woodland Cemetery in an area that contains a mix of residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Woodland Heights Organization Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on April 30, 2021 and the Final Agenda on May 14, 2021. Additionally, separate notifications of the
hearing for this specific item were mailed on April 30, 2021 (20 days prior to the hearing) and on May 10, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Woodland Heights Organization notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

The applicant mailed the required neighborhood outreach letter and will be available to provide a summary of those communications at the hearing.

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

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

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

The applicant is proposing to rezone the property from “N5” Neighborhood District to “N5-2” Neighborhood District. The “N5-2” District allows for one- and two-household dwellings that are in accordance with “House D” building types. The proposed two (2) dwelling units on a 7,000-square foot lot represent a new density of 12.45 units per acre. Therefore, the rezoning requires that the future land use designation be amended to Medium Density Residential. Plan DSM describes this designation as follows:

Medium Density Residential: Areas developed with primarily single family, duplex, and small multi-family residential units with up to 17 dwelling units per net acre.
2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). The proposed “N5-2” District allows for one- and two-household dwellings that are in accordance with the “House D” building type. The provisions for this building type is contained in City Code Section 135-2.16. Any deviation from these requirements would be subject to the consideration of any necessary future Type 1 or Type 2 Design Alternative(s).

3. **Staff Rationale:** The proposed rezoning would allow use of the subject property to be renovated for use as a two-household dwelling. The property was previously used as a 4-unit residential conversion. However, the property has sat vacant and lost legal non-conforming rights. Therefore, unless the property is rezoned, it can only be used a one-household residential use.

   A two-household residential dwelling would fill a need identified in PlanDSM to provide medium density, missing middle housing. The location of the subject property along Woodland Avenue within a neighborhood node lends itself to this type of use.

II. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “N5-2” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low Density Residential.”

Part B) Staff recommends approval of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Medium Density Residential.

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

**SUMMARY OF DISCUSSION**

Kyle Larson presented the staff report and recommendation.

Will Page asked what would happen if this request were denied?

Jason Van Essen stated the commission’s recommendation will be forwarded to City Council. If Council agreed to move forward with denial, the applicant would have two paths to take. One would be to use the property for a single-household dwelling and the other would be to seek a use variance from the Zoning Board of Adjustment.

Mitch Coluzzi 2421 High Street, presented an electronic slide slow to the commission.
CHAIRPERSON OPENED THE PUBLIC HEARING

Lyla Dozer 741 27th Street, stated the Woodland Heights Organization has three major concerns about the proposed rezoning. The current parking and traffic problems due to high density and no on street parking. They are concerned about the exceptions needed for front yard parking that does not meet the character of the neighborhood. They believe if an upzonig was to occur, more developers would come along asking for the same. Within Woodland Heights, they already have many large apartments, duplexes and quad conversions. The area is currently at 64% rental and needs more home ownership opportunities. They fear the neighborhood would be ruined by more middle housing.

Mitch Coluzzi stated traffic and parking along Woodland is an issue and has been an issue with this property, along with the current condition. This is his attempt to solve the problems associated with this property but still maintain a level of feasibility.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if the rezoning is approved, will the site plan come through the commission for review?

Jason Van Essen stated he would anticipate that it will. In glancing at the site sketch, he would expect some Type 2 Design Alternatives would be needed for parking. Without doing a full a full review, he cannot fully guarantee they would come before the commission.

Will Page asked if the Neighborhood Association will have the opportunity to comment on it?

Jason Van Essen stated they would send out 10-day notices just like any other site plan cases with type 2 relief.

Greg Wattier stated he would be in support of this request as the applicant is attempting to make progress in the neighborhood and has a proven track record of improving properties.

COMMISSION ACTION:

Emil Webb made a motion for:

Part A) The proposed rezoning to “N5-2” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low Density Residential.”

Part B) Approval of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Medium Density Residential.
Part C) **Approval** of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.

**THE VOTE:** 10-1 (Will Page voted in opposition)

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**Item 13**

Request from Greg Lorang and Elissa Cirignotta (owners) for the following regarding the property located at 1235 43rd 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 Low Density Residential within a Community Node to Low-Medium Density Residential within a Community Node. (21-2021-4.15)

C) Rezone property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow use of the property for an Accessory Household Unit dwelling. (ZON2021-00049)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is proposing to remove the existing garage and construct a garage with an Accessory Household Unit (AHU). The proposed rezoning would allow two (2) dwelling on the lot.

2. **Size of Site:** 13,790 square feet (0.317 acres).

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

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

5. **Adjacent Land Use and Zoning:**
North – “N5”; Use is a one-household dwelling.

South – “N5”; Use is a one-household dwelling.

East – “N5”; Use is a one-household dwelling.

West – “N5”; Use is 43rd Street ROW and a one-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is located along the east side of 43rd Street to the north of University Ave in an area that contains a mix of residential uses. The property is also located within the Franklin Area Special Investment District.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Waveland Park Neighborhood and within 250 feet of the Drake Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the public hearing) and May 10, 2021 (10 days prior to the public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the 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 Services Department on the date of the mailing. The Waveland Park Neighborhood Association mailings were sent to Anna Mason, 1434 44th Street, Des Moines, IA 50311. The Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

Due to the COVID-19 pandemic, the applicant was unable to hold an in-person neighborhood meeting. However, on March 4, 2021, the applicant mailed a letter to the neighboring property owners and neighborhood association to explain their proposal and to provide contact information in case they had any questions or comments. The applicant has provided a summary of the communications with neighboring property owners.

8. Relevant Zoning History: N/A.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The applicant is requesting that the future land use designation for the property be amended from “Low-Density Residential” in a “Community Node” to “Low-Medium Density Residential” in a “Community Node.” Plan DSM describes these designations as follows:

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

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

Community Node: Mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

The applicant is proposing to rezone the property from “N5” Neighborhood District to “N5-2” Neighborhood District. The “N5-2” District allows for one- and two-household dwellings that are in accordance with either “House B” or “House C” “House D” building types. The proposed two (2) dwelling units on a 0.317-acre lot represent a new density of 6.31 units per acre. Therefore, the rezoning requires that the future land use designation be amended to Low-Medium Density Residential.

The subject property is in the Franklin Area Special Investment District, which calls for affordable homeownership and rehab activities that further the neighborhoods desire to be inviting and inclusive of diverse populations.

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

3. Staff Rationale: The proposed rezoning would allow use of the property as a two-household dwelling, with the addition of an Accessory Housing Unit for use by a family member. A two-household dwelling would fill a need identified in PlanDSM to provide medium-density, missing-middle housing. It would also further the goal of diverse housing types identified in the Franklin Area Special Investment District.
Development patterns within a Community Node are expected to be denser than in other areas of the city that are not in a Node.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “N5-2” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low Density Residential.”

Part B) Staff recommends approval of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Low-Medium Density Residential.

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

SUMMARY OF DISCUSSION

Anu Minhas presented staff report and recommendation.

Greg Wattier asked if staff knew the number of accessory dwellings in this area?

Anu Minhas stated she does not have that information in front of her tonight.

Greg LoRang 1235 43rd Street stated the reason for this request tonight is to have the ability to build an ADU, providing a single level home for his mother to live in. They want to maintain the character of the neighborhood and will continue to do so through the design process. They do not want to create any obnoxious building but rather a functional location hidden away from the neighborhood.

Steve Wilke-Shapiro 3134 Cottage Grove Avenue, architect for the project, stated they are excited to present this project so they can demonstrate how creative housing solutions can support diverse living arrangements for people with accessibility needs.

CHAIRPERSON OPENED THE PUBLIC HEARING

Thai Luong 1242 42nd Street stated they were delighted to hear about the ADU being added to the property with some diversity in architecture. Knowing there are other ADU’s in the neighborhood, they don’t find this incongruous to the character of the neighborhood.

Kelly Bronsink 1249 43rd Street stated they are in opposition of this request as they enjoy their backyard and not in favor of major construction in the neighborhood. Her main concern is the accessory dwelling taking up more of the property than allowed by the Zoning Code.

Donna Darden 1243 43rd Street stated they are living in their home more than a few months out of the year. They did plan to move back fulltime after retirement but due to
Covid-19, that has been delayed. They believe this project will change the character of the neighborhood and hope to have the opportunity to review the plans more closely.

Greg LoRang stated their intention for this project is to create a place for a multigenerational family to exist. The space above the garage will give him a safe place to work and open additional space in the main home for the growing family.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Abby Chungath stated she is in support of accessory dwellings and believes it does not deflect from the character of the neighborhood.

Greg Wattier stated he would also be in support of this request and hopes the applicant will reach out to adjoining neighbors to show them more of what they plan to do.

**COMMISSION ACTION:**

Jann Freed made a motion for:

Part A) the proposed rezoning to “N5-2” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low Density Residential.”

Part B) **Approval** of an amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Low-Medium Density Residential.

Part C) **Approval** of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District subject to review of any site plan and building design for an accessory household unit by the Plan and Zoning Commission.

**THE VOTE: 11-0**

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**Item 14**

Request from IPE1031 REV353, LLC (owner) represented by Blake Pagliai (officer) for the following regarding the property located at 505 Sheridan Avenue.

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

B) Rezone property from “I1” Industrial District to “I2” Industrial District, to allow the existing property to be considered for a Conditional Use from the Zoning Board of Adjustment for an outdoor storage yard for portable toilets interpreted as an Intensive Fabrication and Production use. (ZON2021-00050)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is currently operating at the site and is under enforcement action. The proposed rezoning would allow them the ability to seek Conditional Use approval from the Zoning Board of Adjustment, which is necessary for the use to continue.

The applicant has requested that the item be continued to the June 3, 2021 meeting of the Commission to allow additional time to complete the neighbor communication requirements.

2. Size of Site: 1.22 acres.

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

4. Existing Land Use (site): Office and storage.

5. Adjacent Land Use and Zoning:

   North – “I1”; Uses are commercial and light industrial in nature.
   South – “P2”; Use is the North Hight School campus.
   East – “I1”; Use is a vacant lot.
   West – “I1”; Uses include a restaurant and warehousing.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood and within 250 feet of the Oak Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to public hearing) and May 10, 2021 (10 days prior to initial public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the 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 Highland Park Neighborhood and Oak Park Neighborhood notices were both mailed to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313 at they have a shared contact person.
The applicant has requested that the item be continued to the June 3, 2021 meeting of the Commission to allow additional time to complete the neighbor communication requirements.

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

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

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

II. **STAFF RECOMMENDATION**

Staff recommends that this item be continued to the June 3, 2021 meeting of the Commission.

**SUMMARY OF DISCUSSION**

Dory Briles stated the applicant for item #14 have requested a continuance to the June 3, 2021, Plan and Zoning Commission meeting to allow time for neighborhood outreach.

**COMMISSION ACTION:**

Will Page made a motion to continue item #14 to the June 3, 2021 meeting.

**THE VOTE:** 11-0

Item 15

Request from MidAmerican Energy Company (owner) represented by Pam McNaughton (officer) for the following regarding the property located in the vicinity of 2400 East County Line Road.

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

B) Amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential to Industrial. (21-2021-4.16)
C) Review and approval of a Large-Scale Development Plan for the site redevelopment of 24.68 acres for Professional Offices, Vehicle Maintenance and Repair, Major Utilities and Public Service Facilities and Outdoor Equipment and Materials Storage uses.

D) Rezone property from “N2b” Neighborhood District to “I2” Industrial District, to the property to be developed for an electrical utility service center in addition to the existing electrical substation. This would allow for request of a Conditional Use from the Zoning Board of Adjustment for above ground storage of flammable liquids interpreted as an Intensive Fabrication and Production use. (ZON2021-00051)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has assembled approximately 25 acres of land use for crop production to develop a new service center.

2. Size of Site: 24.74 acres.

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

4. Existing Land Use (site): The subject property is partially developed on the eastern edge with a Major Utility and Public Service Facility (electrical utility substation) use. The remainder of the property is undeveloped land used for Crop Production.

5. Adjacent Land Use and Zoning:

   North – “P2”; Use is Worship Assembly (Lighthouse Community Church).

   South – “EX-V”; Use is existing MidAmerican Energy facility with Professional Offices, Vehicle Maintenance and Repair, and Outdoor Equipment and Materials Storage uses.

   East – “N3b”; Use is undeveloped land used for Crop Production.

   West – “MX3-V” and Meadowlands Legacy “PUD”; Uses are undeveloped land used for Crop Production and General Retail Sale (Earl May Garden Center).

6. General Neighborhood/Area Land Uses: The subject property is located near the intersection of Southridge Boulevard/U.S. Highway 69 and East County Line Road/Indianola Avenue. The area contains a mix of commercial, industrial, agricultural and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within a Recognized Neighborhood. All neighborhood associations were notified of the May 20, 2021 public hearing by mailing of the Preliminary Agenda on April 30, 2021 and by mailing of the Final Agenda on May 14, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 30, 2021 (20 days prior to the public hearing) and on May 10, 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 applicant is required to do neighbor communication 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:** The subject property was zoned from “R1-80” One Family Residential District and “A-1” Agricultural District to “N2b” Neighborhood District as part of the citywide Zoning Map update effective on December 15, 2019.

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

   **LOW DENSITY RESIDENTIAL**
   Areas developed with primarily single family and two-family residential units with up to 6 dwelling units per net acre.

   The applicant is proposing to rezone the property from “N2b” District to “I2” District. The Zoning Ordinance states that “‘N2b’ is intended for contemporary, mid-sized lots for single- and two-household residential houses with a more flexible building form and located in contemporary neighborhoods pursuant to the House A building type in Section 135-2.13 of the Municipal Code.”

   The proposed “I2” District zoning requires the “Industrial” designation on the Future Land Use Map in order to find the proposed rezoning in conformance with PlanDSM. Staff believes that the requested amendment to designate the future land
use to Industrial would also be necessary. The Industrial designation is described 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 “I2’ is intended for general and higher intensity industrial uses as well as warehousing and transportation terminal.” Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant has proposed “I2” Industrial District in order to have flexibility to provide above ground storage tanks for flammable liquids, which is defined under the Zoning Ordinance within the Intensive Fabrication and Production description. The applicant is also proposing the possibility for outside storage of salvage material or inoperable vehicles and machinery. This would fall within the used description of Junk/Salvage Yard. Both these possible uses would require the “I2” Industrial District zoning, as well as a further approval of a Conditional Use by the Zoning Board of Adjustment.

In reviewing the surrounding context of uses within the area, Staff is concerned about the possibility of above-ground fuel storage and outside storage of junk and salvage materials within close proximity to civic and retail commercial uses and in direct proximity to future contemporary household living development. Staff believes, however, that aesthetic Workshop/Warehouse and General Building Types for Office and Vehicle Maintenance/Repair uses can be compatible with aesthetic design and outdoor storage and site development that is clean and conforms to the Site Plan requirements in Chapter 135 of the Municipal Code. Therefore, Staff recommends denial of the requested “I2” Industrial District, but is in favor of an alternative to consider a rezoning to the “I1” Industrial District. This would necessitate a shift to the applicant’s business model to provide underground fuel storage and to keep any storage of salvage or junk material completely within buildings. Staff believes this adjustment to the proposed development would be able to be compatible with the surrounding land use pattern.

2. **Large-Scale Development Plan:** The applicant provided the required Large-Scale Development Plan (LSDP) with the rezoning when it exceeds 5 acres in area. The submitted LSDP depicts the concept for the property development. It shows proposed buildings, parking area, outside storage area, open space and storm water detention. There is proposed vehicular access on the west and south. East County Line Road is shown based on proposed reconfiguration shifting the intersection with Indianola Road further north away from the intersection of Indianola Road and Southridge Boulevard/U.S. Highway 69. Stormwater is showing to be collected in a stormwater basin at the northwest corner of the property. Staff would recommend adjusting the LSDP to indicate the fueling area would have underground storage.
3. **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.

4. **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 “I2” Industrial District (or even “I1” Industrial District) and the proposed Large-Scale Development Plan be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential.

Part B) Staff recommends approval of the requested amendment of the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Industrial.

Part C) Staff recommends approval of the submitted Large Scale Development Plan subject to a revision to indicate fueling area is served by underground storage and so long as storage of salvage or junk material shall only occur within completely enclosed buildings.

Part C) Staff recommends denial of the requested rezoning of the subject property from “N2b” Neighborhood District to “I2” Industrial District.

Staff recommends approval of an amended rezoning of the property from “N2b” Neighborhood District to “I1” Industrial District.

**SUMMARY OF DISCUSSION**

Dory Briles stated the applicant for item #15 have requested a continuance to the June 3, 2021, Plan and Zoning Commission meeting to allow time for neighborhood outreach.

**COMMISSION ACTION:**

Will Page made a motion to continue item #15 to the June 3, 2021 meeting.

**THE VOTE:** 11-0
Committee and Director’s Reports:

Jason Van Essen stated we will not be returning to in-person meetings in July as the City is in process of acquiring new equipment for the boardroom.

Meeting adjourned at 8:25pm