The April 16, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Meeting ID 514 418 051.


P&Z ABSENT: Francis Boggus and Steve Wallace

STAFF PARTICIPANTS: Mike Ludwig, Tyler Hall, Bert Drost, Jason Van Essen, Katherine Dostart, Erik Lundy, Glenna Frank, Judy Parks-Kruse and Dolores Briseno.

Dory Briles made a motion to approve the March 5, 2020 Plan and Zoning Commission meeting minutes. Motion carried 10-0-2 (Jacqueline Easley and Greg Wattier abstained as they were not present for the March 5 Meeting).

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2, #3 or #4. None requested to speak.

John “Jack” Hilmes made a motion to approve Consent Agenda Items #1, #2, #3 and #4 per the recommendations in the staff reports. Motion Carried 12-0 for Item #1, #2 and #3. Motion Carried 11-0-1 for Item #4 (Greg Wattier abstained from the vote).

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Skyline Trucking, Inc. (owner) represented by Ronald Fadness (officer) for the following for property located at 3220 Dixon Street.

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

B) Rezone property from “I1” Industrial District to “I2” Industrial District, to allow for future consideration of a Conditional Use application for a Fabrication and Production, Intensive use, specifically for an above-ground petroleum tank in excess of 1,000 gallons (12,000 gallons).

(ZON2020-00029)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to install a 12,000-gallon above-ground petroleum tank for truck fueling to replace the use of mobile tanks. The tank would be proposed to be placed west of the existing shop building.

2. Size of Site: 2.5 acres.
3. **Existing Zoning (site):** “I1” Industrial District.

4. **Existing Land Use (site):** The subject property contains a 1-story, 4,000-square foot service shop building and a 2-story, 1,800-square foot office building for Bullseye Trucking.

5. **Adjacent Land Use and Zoning:**
   - **North** - “I1”; Use is Liberty Ready Mix concrete mixing plant.
   - **South** - “I1”; Use is repair shop and outdoor storage yard for Hallett Materials.
   - **East** - “I2”; Uses are Alter Trading metal recycling and EP2 Electrical Power Products.
   - **West** - “I1”; Use is Liberty Ready Mix materials storage yard.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the west side of the Dixon Street corridor north of Hull Avenue, in an area that includes a mix of industrial uses. The subject property is separated from a high-density multi-household residential development to the west by Liberty Ready Mix materials storage yard and the Union Pacific Railroad.

   **Applicable Recognized Neighborhood(s):** The subject property is not located within a recognized neighborhood but is within 250 feet of the Highland Park Neighborhood to the west.

   A notice regarding postponement of the March 19, 2020 P&Z meeting was mailed on March 13, 2020 to the Highland Park Neighborhood and all primary titleholders on file with the Polk County Assessor for each property within 250’ of the site.

   A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Highland Park Neighborhood and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   The Highland Park Neighborhood mailings were sent to Drew Kelso, 815 East Seneca Avenue, Des Moines, IA 50316.

   The applicant held their neighborhood meeting on March 13, 2020. The applicant will be available to go over their summary of the neighborhood meeting at the hearing.

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

8. **PlanDSM Land Use Plan Designation:** Industrial.
9. **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 Land Use Plan:** The City’s comprehensive land use plan designates the property as “Industrial”. PlanDSM describes “Industrial” as “Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.”

   The recently adopted Zoning Ordinance describes the requested “I2” District as follows: “intended for general and higher intensity industrial uses as well as warehousing and transportation terminals”.

   Staff recommends that the requested “I2” District be found in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of “Industrial”. The proposed above ground storage tank would be within the Fabrication and Production – Intensive use of the property as defined in the Zoning Ordinance as it would exceed 1,000 gallons of flammable or combustible liquids. Should the property be rezoned, the use must the further be reviewed and granted as a Conditional Use by the Zoning Board of Adjustment, where mitigating conditions may be required for protection of surrounding properties.

2. **Site Considerations:** The existing property has a Site Plan approved on May 11, 2006 for Bullseye Trucking. This plan did not provide for any development west of the shop and office buildings other than a detention basin south and west of the buildings. Since that time, the property west of the buildings has been used for maneuvering for trucks using the mobile fueling tanks, and for storage of aggregate materials. For these uses to continue, and for the proposed permanent 12,000 gallon above-ground storage tank use, the Site Plan would be required to show necessary paving for the maneuvering to the refueling area and to demonstrate requirements for the outside storage yard area.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Industrial.
Part B) Staff recommends approval of the request to rezone to the “I2” Industrial District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Industrial and Part B) APPROVAL of the request to rezone to the “I2” Industrial District.

THE VOTE: 12-0

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Item 2

Request from Scottish Rite Park, Inc. (owner) represented by Daniel J. Boor (officer) for the following for property located at 2909 Woodland Avenue.

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

B) Amend the PlanDSM Creating Our Tomorrow Plan future land use designation from Public/Semi-Public to Neighborhood Mixed Use. (21-2020-4.07)

C) Rezone property from “NX3” Neighborhood Mix District to “RX1” Mixed-Use District, to allow for the applicant to request a Conditional Use for a business selling liquor, wine and/or beer as a restaurant in the “Bistro” within the residential complex. (ZON2020-00032)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property contains a residential development that provides independent and assisted living for seniors. The applicant is proposing to serve liquor, wine and beer through their on-site dining services. The proposed
rezoning is necessary for the applicant to be able to request Conditional Use approval from the Zoning Board of Adjustment for this type of use.

2. **Size of Site:** 449,641 square feet or 10.32 acres.

3. **Existing Zoning (site):** “NX3” Neighborhood Mix District.

4. **Existing Land Use (site):** Independent and assisted living facility for seniors.

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

   - **North** – “NX3” & “P2”; Uses are a one household dwelling owned by the applicant and Callanan Middle School.
   - **South** – “N5”, “N5-2” & “N5-4”; Uses include one household dwellings and small multiple household dwellings.
   - **East** – “N5”; Uses are one household dwellings.
   - **West** – “NX2; Use is a large multiple household development.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Woodland Heights Neighborhood. The neighborhood association was notified of the March 19, 2020 public hearing by mailing of the Preliminary Agenda on February 28, 2020 and by mailing of the Final Agenda on March 13, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 28, 2020 (20 days prior to March 19, 2020 hearing) and March 9, 2020 (10 days prior to the March 19, 2020 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.

   A notice regarding postponement of the March 19, 2020 P&Z meeting was mailed on March 13, 2020 to the Woodland Heights Organization and all primary titleholders on file with the Polk County Assessor for each property within 250 feet of the site.

   A notice of the April 16, 2020 electronic/Zoom meeting of the P&Z was mailed on April 3, 2020 to the Woodland Heights Organization and all primary titleholders on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

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


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 “Public/Semi-Public” to “Neighborhood Mixed Use”. Plan DSM describes these designations as follows:

   **Public/Semi-Public**: Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

   **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.

   This amendment is necessary so that the proposed “RX1” zoning to be found in conformance with the comprehensive plan. The Zoning Ordinance states that “RX1 is intended for transitional areas between MX Districts and N Districts, providing for residential and office buildings at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.” Building types allowed in this district include the Commercial Cottage, General Building, Civic Building, Principal-Use Parking Structure, Flat Building and Row Building.

   Staff believes the proposed amendment is appropriated given the large scale of the subject property and the fact that it is separated from one household dwellings in the area by streets.

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

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “RX1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Public/Semi-Public.”

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Public/Semi-Public to Neighborhood Mixed Use.

Part C) Staff recommends approval of rezoning the subject property from “NX3” Neighborhood Mix District to “RX1” Mixed-Use District.

### SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

### COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of Part A) the proposed rezoning to “RX1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Public/Semi-Public.”, Part B) APPROVAL of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Public/Semi-Public to Neighborhood Mixed Use and Part C) APPROVAL of rezoning the subject property from “NX3” Neighborhood Mix District to “RX1” Mixed-Use District.

**THE VOTE:** 12-0

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**Item 3**

Request from Savannah Homes, Inc. (owner) represented by Ted Grob (officer) for the following regarding property located at 3323, 3335, and 3341 East 24th Street:

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

B) Rezone property from “P2” Public, Civic and Institutional District to “N3a” Neighborhood District, to allow for development of One Household Living use dwellings. (ZON2020-00035)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning to the “N3a” District would allow the applicant to develop the property for a one household dwelling using the House Type B building type.

2. Size of Site: 60 feet by 190 feet irregular-shaped (9,589 square feet).


4. Existing Land Use (site): Undeveloped land and one household dwellings under construction.

5. Adjacent Land Use and Zoning:
   - North - “NX2”, Use is an independent senior living multiple-household dwelling.
   - South - “N3a”; Uses are one-household dwellings.
   - East - “P2”; Use is Assembly, Place of Worship.
   - West - “N3a”; Uses are one-household dwellings and interstate freeway.

6. General Neighborhood/Area Land Uses: The subject property is in a transitional area between mixed-use to the north, I-235 freeway to the west and one-household living neighborhood to the east and south.

   Applicable Recognized Neighborhood(s): The subject property is located within the Fairmont Park Neighborhood and within 250 feet of an area jointly considered the Douglas Acres Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Fairmont Park Neighborhood, the Douglas Acres Neighborhood and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   The Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317, and the Douglas Acres Neighborhood mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317.

   The applicant held a required neighborhood meeting on February 10, 2020. The applicant has provided the required written summary of the neighborhood meeting.

7. Relevant Zoning History: The City’s new Zoning Ordinance took effect on December 15, 2019, at which time the property became zoned “P2” Public, Civic
and Institutional District. This was based on the drafting of the Zoning Map to reflect it as part of the church property at the time.

8. **PlanDSM Land Use Plan Designation**: The property is designated as Low Density Residential.

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

### III. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Future Land Use Plan**: The future land use designation for the property is Low Density Residential. No amendment would be necessary to find the proposed rezoning in conformance with PlanDSM as “N3a” Neighborhood District is consistent with Low Density Residential Development under 6 household units per acre.

2. **Streets and Access**: A traffic study was not required by the City’s Traffic Engineering Division for the requested rezoning. The property already has frontage and access to an improved public street on East 24th Street.

3. **Utilities**: The property also has access to all necessary public utilities within East 24th Street.

4. **Housing Development**: The applicant purchased the property from the church owner to the east and subdivided it by Plat of Survey instrument during the Zoning Ordinance update process within the past year. Two, one-household dwellings were issued permits under the previous “R1-60” zoning in place at the time. The applicant is seeking issuance of a permit for a third one-household dwelling on the remaining lot. Any permit would be issued under the House Type B regulations if the property is rezoned. The houses under construction were reviewed under the previous ordinance and are considered pre-existing but would become conforming in the event the proposed rezoning is approved.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designations of Low Density Residential.

Part B) Staff recommends approval of the requested rezoning to “N3a” Neighborhood District.
SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designations of Low Density Residential and Part B) APPROVAL of the requested rezoning to “N3a” Neighborhood District.

THE VOTE: 12-0

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Item 4

Request from Walden Point, LP (owner) represented by Robert Burns (partner) for a 2nd Amendment to the Walden Point PUD Conceptual Plan for property located at 1200 4th Street, to allow use of the 3-story, 60 bed Group Living, Assisted Living Facility to be converted to units allowing either Group Living, Assisted Living Facility or Multiple Household Living for seniors.

(ZON2020-00036)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed amendment to the Walden Point PUD Conceptual Plan would allow the 3-story, 60-unit Group Living, Assisted Living Facility to be converted to units that are used for either Group Living, Assisted Living Facility or Multiple Household Living for seniors. Thus, the amendment would allow the facility to contain a mix of assisted living and independent living options for persons aged 55 and older. All modifications would be internal to the existing building.

2. Size of Site: 2.44 acres.

3. Existing Zoning (site): “PUD” Planned Unit Development District.
4. **Existing Land Use (site):** The site contains the Walden Point Assisted Living Facility and surface parking lots.

5. **Adjacent Land Use and Zoning:**
   
   **North** – “N5”, Uses are one-household residential.

   **South** – “Mercy PUD”, Uses include University Avenue and Mercy Medical Center.

   **East** – “RX2”, Uses include 4th Street and a surface parking lot for Mercy Medical Center.

   **West** – “N-5”, Uses include 5th Avenue and one-household residential.

6. **General Neighborhood/Area Land Uses:** The subject property is located to the north of University Avenue in an area that transitions from commercial uses along the corridor to residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the River Bend Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Riverbend Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

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 River Bend Neighborhood mailings were sent to Jon Royal, 1830 8th Street, Des Moines, IA 50314.

Due the COVID-19 pandemic, the applicant is unable to hold a neighborhood meeting. However, on March 27, 2020, the applicant mailed a letter to the neighboring property owners to explain their proposal and to provide contact information in case they had any questions or comments. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** The subject property (excluding the property known as 1223 5th Avenue) was rezoned to “PUD” Planned Unit Development District by the City Council on August 9, 2004 by Ordinance 14,368. Also at that time, the PUD Conceptual Plan was established and a north/south alley through the site was vacated and conveyed to the applicant.

The 1st amendment to the Conceptual Plan was approved by City Council on April 25, 2005, by Roll Call 05-1020. This amendment added the property known as 1223 5th Avenue to the PUD, shifted the 60-unit assisted living facility building to the
west, and reconfigured the off-street parking areas.

9. **PlanDSM Land Use Plan Designation**: High Density Residential.

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

The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating our Tomorrow**: The subject property is designated as High Density Residential, which is defined as, “Areas developed with primarily higher intensity multi-family housing with a minimum density over 17 dwelling units per net acre.” The proposed amendment to the PUD Conceptual Plan is compatible with designation. Furthermore, Staff believes that this is an appropriate location for a use that involve both assisted living and independent living options for persons aged 55 and older.

   2. **Off-Street Parking**: The PUD Conceptual Plan does not propose any modifications to the existing off-street parking areas. There is an existing parking lot immediately to the east of the building, which contains 26 parking stalls. There is an additional existing parking lot on the southern portion of the PUD, which contains 57 parking stalls. This lot functions as overflow parking for Walden Point, as well as Mercy Medical Center.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the proposed 2nd Amendment to the Walden Point “PUD” Conceptual Plan.
SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of the proposed 2nd Amendment to the Walden Point “PUD” Conceptual Plan.

THE VOTE: 11-0-1 (Greg Wattier abstained from the vote)

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 5

Request from Anchor Investment Group, LLC (owner) represented by Michael Donlin for the following for property located at 901 Southeast 7th Street, 709 Vale Street and 714 Vale Street. Additional subject property is owned by Camp 2 Capital, LLC.

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

B) Rezone property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District, to allow for development of row townhome household units. (ZON2020-00025)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow the site to be redeveloped with a rowhouse product. The applicant has submitted a site sketch and conceptual building elevations that indicate the project would consist of two rowhouse structures with each containing six units. All 12 of the units would be oriented towards Vale Street with rear loaded garages accessed from the adjoining alley. The submitted information indicates the project would be developed in two phases.

2. Size of Site: 318 feet by 112 feet (35,616 square feet or 0.818 acres).

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

4. Existing Land Use (site): The site contains three, one household dwellings.
5. **Adjacent Land Use and Zoning:**

   - **North** – “N3c”; Uses are one household dwellings.
   - **South** – “N3c”; Uses are one household dwellings.
   - **East** – “N3c”; Uses are one household dwellings.
   - **West** – “P1”; Use is vacant land owned by the City along the Des Moines River levee.

6. **General Neighborhood/Area Land Uses:** The subject property is located just east of the Des Moines River levee in an area that contains a mix of residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. The neighborhood association was notified of the March 5, 2020 public hearing by mailing of the Preliminary Agenda on February 14, 2020 and by mailing of the Final Agenda on February 28, 2020. A Final Agenda for the March 19, 2020 public hearing was mailed March 13, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 14, 2020 (20 days prior to March 5, 2020 public hearing) and February 24, 2020 (10 days prior to the March 5, 2020 public hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   A notice regarding postponement of the March 19, 2020 P&Z meeting was mailed on March 13, 2020 to East Village Neighborhood Association and all primary titleholders on file with the Polk County Assessor for each property within 250’ of the site.

   A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the East Village Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Historic East Village Neighborhood Association notices were mailed to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

   The applicant held a neighborhood meeting on March 15, 2020. A written summary must be submitted by the applicant no later than three (3) days prior to the Commission meeting, which is Monday, April 13, 2020. As of April 9, 2020, a summary has not been provided by the applicant.

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

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

The applicant is proposing to rezone the property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District. The Zoning Ordinance states that “NX2 is intended for a mix of single-household houses with appropriately scaled and detailed multiple-household building types in the same neighborhood.” Building types allowed in this district include the Civic Building, Flat Building, Row Building and House D.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.

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

4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way. The project would require the extension of a water main along Vale Street from the side streets to serve each rowhouse unit.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends that the proposed rezoning to “NX2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”
Part B) Staff recommends approval of rezoning the subject property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District subject to the following conditions:

1. Any development that provides three (3) or more attached household units or three (3) or more households per lot shall utilize the adjoining public alley for vehicular access.

2. Any development that utilizes the adjoining alley shall improve the alley to the satisfaction of the City Engineer.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Will Page asked how the number of people in opposition would affect City Council’s vote.

Jason Van Essen stated it would require a 6/7 vote from City Council to approve the rezoning.

Michael Donlin, 640 48th Street stated they are proposing 2 buildings with 6 units in each building. They feel this has been designed to fit the future land use plan and all 12 units will be sold individually as condominiums.

Jann Freed asked if the applicant agrees with the staff recommendation.

Michael Donlin stated yes.

Jacqueline Easley asked why the East Village Neighborhood Association didn’t receive notice.

Michael Donlin stated they mailed notices to the neighborhood and had to cancel the public meeting due to COVID-19. He also reached out via phone call to the Neighborhood Association but was unable to get in touch with them.

CHAIRPERSON OPENED THE PUBLIC HEARING

Thomas Ellis, 712 E. Railroad Avenue stated he is opposed to driveways accessing the alley. He doesn’t feel it’s safe because the kids in the neighborhood play along the alley way.

Jody Ellis, 712 E. Railroad Avenue stated more pedestrians use the alley rather than the street side.

Larry Parsons, 806 E. Railroad Avenue stated he is opposed to the project because of increased traffic and he would rather see single family homes in the area.
David Johnson, 700 E. Railroad stated he would like to second the concerns that have been stated regarding increased traffic and the safety of the children in the neighborhood.

Vicki Stark, 700 E. Railroad stated the alley has been vacant and unmaintained for years. Allowing 12 driveways to access the alley would drastically change the character of the neighborhood.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Michael Donlin stated alley access isn’t a big deal to him but it could be better for future resale with garages that do not face the street.

Jann Freed asked if the applicant has options regarding drive access?

Mike Ludwig stated it is clear the zoning code would encourage the driveways and/or garages to face and have access to the alley. We are discussing this item for rezoning tonight and could consider different options as staff reviews the site plan such a separate private drive that connects the driveways to each unit.

Will Page asked how the alley would be improved to satisfy the City Engineering.

Mike Ludwig stated it would need to be hard surface regardless if it’s the alley right of way or a private drive along the private property.

Greg Wattier stated the topic tonight is more about medium density in this area opposed to increase traffic.

Jann Freed stated it’s good to hear there can be negotiation during the site plan review.

Greg Wattier stated he would be inclined to move staff recommendation as this project makes sense for the area.

Jason Van Essen asked if Greg Wattier would like modify condition #1 in the recommendation to allow more discussion about the alley access.

Greg Wattier stated he would rather see garages along the alley rather than Vine Street.

Greg Jones stated he’s in agreement with Greg Wattier’s comments.

Will Page stated he would be in favor of keeping condition #1 in the recommendation.

COMMISSION ACTION:

Greg Wattier made a motion for approval of Part A) the proposed rezoning to “NX2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land
Use Plan designation of “Low-Medium Density Residential.” And Part B) **APPROVAL** of rezoning the subject property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District subject to the following conditions:

1. Any development that provides three (3) or more attached household units or three (3) or more households per lot shall utilize the adjoining public alley for vehicular access.

2. Any development that utilizes the adjoining alley shall improve the alley to the satisfaction of the City Engineer.

**THE VOTE:** 11-0-1 (Abby Chungath abstained from the vote)

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**Item 6**

Request from Pinnacle on Fleur, LLC (purchaser) represented by Randy Walters (officer) for review and approval of the following for property located at 2710 and 2500 Fleur Drive. The subject properties are owned by Village at Grays Lake, LLC.

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

B) 1\(^{st}\) Amendment to the Village at Grays Lake PUD Conceptual Plan, to define Lot 5 of the Plan to be developed with 20, 3-story Row Building Type townhomes (ZON2020-00028)

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The request would allow the PUD Conceptual Plan for the former American Institute of Business campus property to be amended to allow for redevelopment of Lot 5 for a 20-unit Row Building Type multiple-household community. reused for mixed use. This would include removing the existing garages on site.

2. **Size of Site:** 13.8 acres for the PUD Conceptual Plan area. The area of Lot 5 is 3.06 acres.

3. **Existing Zoning (site):** “M-3” Limited Industrial District and “R-3” Multiple-Family Residential District.
4. **Existing Land Use (site):** The property of the amendment area is largely vacant but is developed with a row of garages that we accessory to student apartment buildings that were demolished in 2017.

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

   **North** - “M-1”, Use is the Stone Container manufacturing and distribution facility.

   **South** - “R-3”, Uses are multiple-family residential dwellings.

   **East** – “C-O” & Norse “PUD”, Uses are the Open Bible Standard Church administrative office building and Butler Mansion office building.

   **West** - “M-3”, “R-3” & “R-6”, Uses include wholesale warehousing and multiple-family residential development.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the Fleur Drive corridor and Bell Avenue in an area that transitions from Industrial to medium to density residential development.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Southwestern Hills Neighborhood and within 250 feet of the Gray’s Lake Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on February 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 28, 2020 (20 days prior to the hearing) and on March 9, 2020 (10 days prior to the scheduled hearing) to the Southwestern Hills Neighborhood, the Gray’s Lake Neighborhood, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on March 13, 2020.

   A notice regarding postponement of the March 19, 2020 P&Z meeting was mailed on March 13, 2020 to the Southwestern Hills Neighborhood Association, the Gray’s Lake Neighborhood Association and all primary titleholders on file with the Polk County Assessor for each property within 250’ of the site.

   A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Southwestern Hills Neighborhood Association, the Gray’s Lake Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   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 mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321 and the Gray’s Lake Neighborhood Association mailings were sent to Rick Trower, 1310 Broad Street, Des Moines, IA 50315.
The applicant has indicated that their neighborhood meeting is scheduled for March 18, 2020. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

8. Relevant Zoning History: The City Council zoned the property to “PUD” Planned Unit Development on October 13, 2019 with Ordinance No. 15, 813. This included the adoption of the PUD Conceptual Plan for Village at Gray’s Lake to allow for adaptive reuse and redevelopment of the former American Institute of Business (AIB) campus.


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

The application, accompanying evidence and “PUD” Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended “PUD” Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: PlanDSM Land Use Plan designates the area of the “PUD” Planned Unit Development that would be amended as “Community Mixed Use” which is described as follows in PlanDSM:

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 believes that this designation would be consistent with the proposed Row House Type multiple-household dwelling uses within the context of the mix of uses and densities in the overall PUD Conceptual Plan area.
2. **“PUD” Conceptual Plan:** The approved PUD Conceptual Plan required that Lot 5, which is generally vacant, would be redeveloped under an amendment to the PUD Conceptual Plan.

3. **Stormwater/Drainage:** The site slopes steeply from Fleur Drive down toward the west edge of the property. The submitted plan does not show conceptual contours that would indicate plans for surface water detention. The Plan shows some area would drain out the entry driveway to an intake to the south in Fleur Drive. Engineering staff has requested that the proposed PUD Conceptual Plan be revised to include a narrative statement on the plan as to how stormwater management would generally be handled with the proposed future redevelopment.

4. **Traffic/Street System:** Traffic Engineering staff did not find that the repurposing of the existing facilities for the overall PUD area drove the need for any further traffic study. The propose redevelopment for 20 household units also does not drive the need for a study in the future. The number of units only requires one vehicular access drive from an emergency access and traffic standpoint.

Any development plan for the proposed project would trigger the requirement for installation of sidewalks on the public street frontages. The Fleur widening project underway will be including installation of public sidewalk along Fleur Drive portion of the property. Staff recommended installation of an integrated minimum 4-foot wide walk adjoining one side of the proposed providing a pedestrian link to the future public sidewalk. The submitted plan indicates a 5-foot wide walk detail.

5. **Site Review:** There are requirements of the approved PUD Conceptual Plan that must be added into the proposed PUD Conceptual Plan Amendment document for consideration with any Final Development Plan for the property.

   A) Streetscape: Street Trees should be spaced 30’ apart within the right-of-way along each frontage. Trees should be no closer than 15’ to a street light.
   
   B) Frontage Perimeter Landscaping: The required area shall be a minimum of 12-feet in depth measured from the street property line with a 3-foot berm or landscaped screen. Shade trees and shrubs shall be provided at a minimum of 1 tree and three shrubs per 40 lineal feet on center.
   
   C) Pedestrian access from any building to a street sidewalk shall be provided and clearly marked / striped on site. Lighting along pedestrian walks shall be a maximum of 15’ in height.  
This is generally accommodated with proposed integrated walk. The Final Development Plan would show any lighting detail.
   
   D) No new mechanical equipment, meters, transformers, condensers, or other such equipment shall be provided on any street side façade. At minimum, such equipment shall be setback from the street façade a minimum of 15’. The Final Development Plan would show this in detail.
E) Any mechanical equipment interior to the site shall be softened with landscaping material outside any code required equipment clearance setbacks. *The Final Development Plan would show this in detail.*

F) Mechanical vents shall not protrude from any street facing façade. *The elevations with the Final Development Plan would demonstrate this.*

G) A minimum 5’ sidewalk is required along each frontage. *This is shown with the proposed amendment.*

H) Easements shall be provided for shared vehicle/pedestrian ingress/egress between sites and to the public sidewalk.

I) Direct light trespass beyond the property lines is prohibited. The maximum horizontal illuminance at grade and the maximum illuminance at five feet above graded measure at the property line shall not exceed illuminating Engineering Society of North America recommended practices for light trespass which is 0.5 footcandles for N districts and 2.0 footcandles for all other districts.

J) Any Final Development Plan would discuss the method for trash removal service. If receptacles are not kept within the separate garages for the units, then a screening solution for their outdoor location would need to be shown on the Final Development Plan.

K) Provisions for permitted site fencing and walls to include heights, design, and materials. Fencing in the front yard between the row townhomes and Fleur should not exceed 4 feet in height.

6. **Urban Design/Building Requirements:** The submitted PUD Conceptual Plan Amendment shows typical elevations for the Row Building Type proposed in a pod of 8 household units, which is the maximum grouping shown on the Plan. The material must be labeled. It is presumed that there is stone proposed on the front and rear facades of the lower/garage story. The upper stories and the ground story sides include at least two contrasting colors of what appear to be fiber cement board panels and one lap-style fiber cement board. There are various shapes of vertical and horizontal windows on the front and back.

Staff believes that the stone material should be wrapped around 360 degrees of the building, exclusive of windows and door openings. The end facades of the units closest for Fleur Drive should have a separate prominent pedestrian entrance either from the garage or unit that would have a walkway to the private drive. This entrance should have an awning reflective of the building design. Additionally, staff believes that there should be a minimum of 12% transparency on the façade of the lower/garage floor ends of the buildings oriented toward Fleur Drive. This is consistent with other Row House Type end facades in other PUD developments when they have faced a public street. *Note: Additional transparency may be required if seeking tax abatement.*

7. **Permit & Development Center Comments:** Any site development is subject to review and recommendation of a Final PUD Development Plan by the Permit and Development Center, with approval by the Plan and Zoning Commission and City Council after corresponding hearing processes.
III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning and “PUD” Conceptual Plan be found in conformance with the existing PlanDSM: Creating Our Tomorrow Plan future land use designations of Public/Semi-Public and Medium Density Residential.

Part B) Staff recommends approval of the requested amendment to the PUD Conceptual Plan subject to compliance with all administrative review comments for the final Mylar record and the provision of the following review guidelines for any development plan made in furtherance of the PUD Conceptual Plan:

1) Addition of a statement as to how stormwater management would be handled with future redevelopment.
2) Landscaping requirements should be indicated listing standards reflective of the Conceptually shown landscaping.
3) Provide the following notes on the PUD Conceptual Plan Amendment:
   a. Streetscape: Street Trees should be spaced 30’ apart within the right-of-way along each frontage. Trees should be no closer than 15’ to a street light.
   b. Frontage Perimeter Landscaping: The required area shall be a minimum of 12-feet in depth measured from the street property line with a 3-foot berm or landscaped screen. Shade trees and shrubs shall be provided at a minimum of 1 tree and three shrubs per 40 lineal feet on center.
   c. Pedestrian access from any building to a street sidewalk shall be provided and clearly marked / striped on site. Lighting along pedestrian walks shall be a maximum of 15’ in height.
   d. No new mechanical equipment, meters, transformers, condensers, or other such equipment shall be provided on any street side façade. At minimum, such equipment shall be setback from the street façade a minimum of 15’.
   e. Any mechanical equipment interior to the site shall be softened with landscaping material outside any equipment clearance setbacks.
   f. Mechanical vents shall not protrude from any street facing façade. A minimum 5’ sidewalk is required along each frontage. Identify either indoor or covered bike parking amenities.
   g. Easements shall be provided for shared vehicle/pedestrian ingress/egress between sites and to the public sidewalk.
   h. Direct light trespass beyond the property lines is prohibited. The maximum horizontal illuminance at grade and the maximum illuminance at five feet above graded measure at the property line shall not exceed illuminating Engineering Society of North America recommended practices for light trespass which is 0.5 footcandles for N districts and 2.0 footcandles for all other districts.
   i. Any Final Development Plan shall discuss the method for trash removal service. If receptacles are not kept within the separate garages for the
units, then a screening solution for their outdoor location would need to be shown on the Final Development Plan.

j. Provisions for permitted site fencing and walls to include heights, design, and materials. Fencing in the front yard between the row townhomes and Fleur should not exceed 4 feet in height.

4) Revise typical Row House Type elevations to:
   a. label required materials.
   b. show stone material wrapped around 360 degrees of the buildings on the main story level, exclusive of windows and door openings.
   c. show end unit elevations for facades of the units closest for Fleur Drive with a separate pedestrian entrance either from the garage or unit that would have a walkway to the private drive. The entrance shall be defined with a design appropriate awning or cover.
   d. show a minimum of 12% transparency on the façade of the lower/garage floor ends of the buildings oriented toward Fleur Drive. More transparency may be required to receive tax abatement.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Will Page asked when staff receives response cards from the public?

Erik Lundy stated the response cards are mailed out with the 10-day notices and they usually start coming back within 3 days and up to the hearing date.

Will Page asked if the commission could receive those cards via email before the meeting so they have the chance to read through them.

Glenna Frank stated staff has discussed this issue and it is something they will not do at this time. If that changed, they will have more discussion on how to distribute response cards to the commission members before the hearing.

Mike Ludwig stated written responses are accepted until the council hearing for rezoning’s.

Will Page asked if Council would be seeing the cards online as they are in tonight’s meeting.

Mike Ludwig stated all cards that have been received before the packet goes out to Council members will be attached in their packets for review.

Greg Wattier asked if this project will come back to the commission with more detailed elevations and materials?
Erik Lundy stated yes. PUDs must be considered by the Plan and Zoning Commission and City Council.

Chris Thompson, 475 S 50th Street Representing Cooper Crawford and Associates stated they agree with staff recommendations and would be happy to answer any questions.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

No one from the commission or the public requested to speak.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

John “Jack” Hilmes made a motion for approval of Part A) the proposed rezoning and “PUD” Conceptual Plan be found in conformance with the existing PlanDSM: Creating Our Tomorrow Plan future land use designations of Public/Semi-Public and Medium Density Residential and Part B) APPROVAL of the requested amendment to the PUD Conceptual Plan subject to compliance with all administrative review comments for the final Mylar record and the provision of the following review guidelines for any development plan made in furtherance of the PUD Conceptual Plan”.

1) Addition of a statement as to how stormwater management would be handled with future redevelopment.
2) Landscaping requirements should be indicated listing standards reflective of the Conceptually shown landscaping.
3) Provide the following notes on the PUD Conceptual Plan Amendment:
   a. Streetscape: Street Trees should be spaced 30’ apart within the right-of-way along each frontage. Trees should be no closer than 15’ to a street light.
   b. Frontage Perimeter Landscaping: The required area shall be a minimum of 12-feet in depth measured from the street property line with a 3-foot berm or landscaped screen. Shade trees and shrubs shall be provided at a minimum of 1 tree and three shrubs per 40 lineal feet on center.
   c. Pedestrian access from any building to a street sidewalk shall be provided and clearly marked / striped on site. Lighting along pedestrian walks shall be a maximum of 15’ in height.
   d. No new mechanical equipment, meters, transformers, condensers, or other such equipment shall be provided on any street side façade. At minimum, such equipment shall be setback from the street façade a minimum of 15’.
   e. Any mechanical equipment interior to the site shall be softened with landscaping material outside any equipment clearance setbacks.
   f. Mechanical vents shall not protrude from any street facing façade. A minimum 5’ sidewalk is required along each frontage. Identify either indoor or covered bike parking amenities.
g. Easements shall be provided for shared vehicle/pedestrian ingress/egress between sites and to the public sidewalk.

h. Direct light trespass beyond the property lines is prohibited. The maximum horizontal illuminance at grade and the maximum illuminance at five feet above graded measure at the property line shall not exceed illuminating Engineering Society of North America recommended practices for light trespass which is 0.5 footcandles for N districts and 2.0 footcandles for all other districts.

i. Any Final Development Plan shall discuss the method for trash removal service. If receptacles are not kept within the separate garages for the units, then a screening solution for their outdoor location would need to be shown on the Final Development Plan.

j. Provisions for permitted site fencing and walls to include heights, design, and materials. Fencing in the front yard between the row townhomes and Fleur should not exceed 4 feet in height.

4) Revise typical Row House Type elevations to:
   a. label required materials.
   b. show stone material wrapped around 360 degrees of the buildings on the main story level, exclusive of windows and door openings.
   c. show end unit elevations for facades of the units closest for Fleur Drive with a separate pedestrian entrance either from the garage or unit that would have a walkway to the private drive. The entrance shall be defined with a design appropriate awning or cover.

   show a minimum of 12% transparency on the façade of the lower/garage floor ends of the buildings oriented toward Fleur Drive. More transparency may be required to receive tax abatement.

THE VOTE: 12-0

 تمامیت

(Jacqueline Ealey left the Zoom meeting at 7:45pm)

Item 7

Request from ND Drake Multifamily, LLC (owner) represented by Alexander Grgurich (officer) for review and approval of a Type 2 Design Alternative for Public Hearing Site Plan in accordance with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B to waive the minimum requirement for spacing of entrances on the University Avenue Primary Frontage and to waive the minimum number of required off-street parking spaces, for property located at 2530 University Avenue, all to allow development of the property with a 4-story mixed used building with 136 household units and 6,000 square feet of ground floor retail/office use.

(10-2020-7.78)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 4-story mixed-use development on the proposed site. The mixed-use development is proposed to consist of 135 residential units (65 micro, 43 studio, 12 one-bedroom, and 16 two-bedroom) and 6,000 square feet of commercial space. The requested relief would allow the building to provide two building entrances facing the University Avenue primary frontage and an equivalent of 49 or 58 of 90 required off-street parking spaces.

2. Size of Site: 47,372 square feet (1.1 acre).


4. Existing Land Use (site): The site consists of vacant land and public alley right-of-way that the Plan and Zoning Commission has recommended for vacation but has not yet been conveyed to the property owner by the City Council. Final site plan approval will be pending until such a conveyance is approved.

5. Adjacent Land Use and Zoning:

   North – “P2”; Use includes Drake University.
   South – “N5”; Uses include single- and multiple-household residential.
   East – “P2”; Use includes First Christian Church and parking lot.
   West – “MX1”; Use includes a development under construction as a new hotel.

6. General Neighborhood/Area Land Uses: The subject property is in the Drake Neighborhood, which is an area consisting of a mix of single-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.

   Applicable Recognized Neighborhood(s): The subject property is in the Drake Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Drake Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   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 Drake Neighborhood mailings were sent to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311.

7. Relevant Zoning History: On January 16, 2020, the Plan and Zoning Commission rezoned the subject properties from “MX1” Mixed Use District and “N5” Neighborhood District to “MX2” Mixed Use District, amend the PlanDSM Land Use
Plan from Low-Medium Density Residential to Neighborhood Mixed Use on property at 1157 26th Street, and vacate the adjoining north/south alley between 25th Street and 26th Street from University Avenue to a point 281 feet to the south, adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26th Street, adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th Street.

8. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**

   Neighborhood Mixed Use.

9. **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. University Avenue Primary Frontage: The applicant is proposing 2 entrances along the University Avenue Primary Frontage of the development. Section 135-2.5.3.D.20 requires an entrance every 45-feet of primary frontage. A 143.51-feet proposed frontage requires 3 entrances. Staff generally supports the reduction of 3 required entrances to 2 entrances due to issues with a change in grade and difficulty in providing ADA access to a third entrance. However, the distance between the two proposed doors exceeds what staff can approve administratively per Section 135-9.2.3.B.2.

2. Parking: A total of 90 parking stalls are required for this project to meet code requirements. This includes a 40% reduction in minimum required parking allowed for MX1 and MX2 districts per Section 135-6.4.2.A. Assuming 42 standard off-street parking stalls, 6 off-street motorcycle parking stalls equating to 3 standard parking stalls, and 4 compliant on-street parking stalls on University Avenue, a total equivalent of 49 compliant parking stalls are currently proposed which is 54% of the required parking for this development.

Community Development and Traffic and Transportation staff administratively denied the applicant’s request for an alternative parking ratio 0.5 space per dwelling unit per Section 135-6.1.2.G and Section 135-9.2.3.B.10 based upon potential negative impacts that could be created for the surrounding neighborhood by a shortage of off-street parking.

A Type 2 Design Alternative is required to Section 135-6.5.1 to count 9 on-street parking stalls on the west side of 26th Street that are equal to the project’s frontage on 26th Street but are not on same side of street as the proposed project. Staff supports approval of the Type 2 Design Alternative to count these spaces toward this project’s required minimum parking as the hotel development on the west side of the street (which is also being constructed by Nelson Development) provides all
its required parking off-street. If approved, an equivalent of 58 compliant parking stalls would be provided which is 64% of the required parking for this development.

Staff requested that the applicant pursue off-site parking agreements for additional parking spaces within 750 feet of the subject property and suggested that the applicant seek a Type 2 Design Alternative to Section 135-6.6.4 of the code to allow off-site parking for the proposed residential use. The applicant has not provided any off-site parking agreements to date. Alternatively, the applicant is requesting a Type 2 Design Alternative to waive 32 required parking spaces.

III. STAFF RECOMMENDATION

Staff recommends the following:

1. Approval of a Type 2 Design Alternative to reduce the minimum number of entrances on the University Avenue primary frontage from 3 to 2 and to approve the spacing of the two proposed entrances pursuant to Section 135-9.2.4.A.2.

2. Approval of a Type 2 Design Alternative to allow on-street parking spaces on the west side of 26th Street (not on the same side of the street as the subject project) to be counted toward the minimum required parking for the proposed project pursuant to Section 135-9.2.4.A.9.

3. Denial of a Type 2 Design Alternative to allow a waiver of 32 required parking spaces pursuant to Section 135-9.2.4.A.9.

4. Approval of a Type 2 Design Alternative to allow 32 required parking spaces for a residential use to be provided off-site and within 750 feet of the subject property pursuant to Section 135-9.2.4.A.3, subject to provision of agreements for said spaces.

5. Approval of the proposed Public Hearing Site Plan subject to the following:
   a. Revision of the of the site plan and building elevations to comply with any approved Type 2 Design Alternatives.
   b. Revision of the site plan and building elevations to comply with all administrative review comments, Type 1 Design Alternatives and applicable Urban Design Review Board comments not addressed by approved Type 2 Design Alternatives.
   c. Vacation and conveyance of applicable right-of-way by the City Council to the developer as necessary for completion of the approved project.
SUMMARY OF DISCUSSION

Mike Ludwig presented the staff report and recommendation.

Greg Wattier asked what type of parking signage is along 26th Street and how it could be controlled?

Mike Ludwig stated on-street parking is prohibited on the East Side of 26th Street but there on-street parking is allowed on the West side of 26th Street. For staff to count the 9 on-street spaces on 26th Street, they would need to be located on the East Side of 26th Street. Since there are no spaces on the East side, it has triggered the Type 2 Design Alternative to consider the parking spaces to the West. With the same developer building on the West side of 26th Street, there hasn’t been any objection to this project counting those 9 spaces.

Greg Wattier stated he is worried there will be people parking overnight in front of the houses to the South. Would staff entertain the enforcement of no parking overnight in that area.

Mike Ludwig stated those streets are public so there is no guarantee the parking could be reserved for the abutting house. The parking standards allow for a reduction of 40% which got them down to 90 spaces, this would be a further reduction from the code.

Alexander Grgurich, 218 6th Ave Suite #200 stated there are 3 reasons that got them to where they are tonight, the context and uniqueness of the site, affordable housing and future plans within the neighborhood. They will have onsite property management at this site that can address any concerns the neighbors have about their tenets. If problems do arise, they do have track record of being responsive to those issues and coming up with good solutions. When talking about the parking requirements for the hotel to the West of this site, they have exceeded that requirement with 114 spaces on site that will more than take care of the hotel and retail needs. They believe a lot of Drake University students will reside at this complex and utilize the parking on campus or won’t have a car. This site is also located in a neighborhood that has a walk score of 81 and is along a major transit route.

CHAIRPERSON OPENED THE PUBLIC HEARING

Jennifer Sayers, 1129 28th Street stated she would like to express support for this project. Nelson Development has been very responsive in talking the Neighborhood Association through this project.

Nichole Aksamit Purcell, 1155 26th Street stated she does understand the concerns around parking but believes it makes sense to have higher density around a major transit route like this. She is happy with how this project has developed since December and is grateful they are providing her a retaining wall to separate her house and this development.
Jason Stuyvesant, 2937 Rutland Avenue Vice Present of the Drake Neighborhood Association stated he is in favor of this project knowing there are parking concerns but believes many people residing at this complex will not have cars. The affordable housing this will bring is great for the area, along with the revitalization that is needed along University Avenue.

Daniel Bosman, 2318 University Avenue stated the residents in the neighborhood are used to the on-street parking. As part owner of Mars Café, they are excited for this development, which will tie Dogtown into the neighborhood.

Nichole Aksamit Purcell asked how the alley would tie into the parking and if the City will retain any Right of Way?

Mike Ludwig stated the alley proposed to be vacated to the South edge of the property with the public alley continuing South. There will be an access easement retained that would allow vehicles out to 26th Street to the West and would also allow vehicles to travel North to University. The former right of way would be owned by the developer.

CHAIRPERSON CLOSED THE PUBLIC HEARING

John “Jack” Hilmes asked how far 750 feet would be in either direction?

Mike Ludwig stated the site is roughly 150-160 feet wide so approximately 2.5 city-blocks in any direction.

Rocky Sposato stated he is comfortable with the plan and would propose to strike condition #3 in the staff recommendation.

Emily Webb stated she agrees with Rocky Sposato’s proposal.

Greg Jones confirmed if we allow condition #3, we would strike condition #4?

Mike Ludwig stated the Commission would want to keep condition #3 but change the word “denial” to “approval and then delete the original condition #4 in the staff report.

COMMISSION ACTION:

Greg Wattier made a motion for approval of the following:

1. Approval of a Type 2 Design Alternative to reduce the minimum number of entrances on the University Avenue primary frontage from 3 to 2 and to approve the spacing of the two proposed entrances pursuant to Section 135-9.2.4.A.2.

2. Approval of a Type 2 Design Alternative to allow on-street parking spaces on the west side of 26th Street (not on the same side of the street as the subject project) to be counted toward the minimum required parking for the proposed project pursuant to Section 135-9.2.4.A.9.
3. Approval of a Type 2 Design Alternative to allow a waiver of 32 required parking spaces pursuant to Section 135-9.2.4.A.9.

4. Approval of the proposed Public Hearing Site Plan subject to the following:
   a. Revision of the site plan and building elevations to comply with any approved Type 2 Design Alternatives.
   b. Revision of the site plan and building elevations to comply with all administrative review comments, Type 1 Design Alternatives and applicable Urban Design Review Board comments not addressed by approved Type 2 Design Alternatives.
   c. Vacation and conveyance of applicable right-of-way by the City Council to the developer as necessary for completion of the approved project.

THE VOTE: 11-0

Item 8

Request from Michael Horsfall (owner) for review and approval of a Type 2 Design Alternative in accordance for Public Hearing Site Plan with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B, for property located at 3815 10th Street, to allow retention of a 20-foot by 20-foot carport structure accessory to the existing one household dwelling.

(BLD2020-00467)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant constructed a carport structure without a building permit. The property contains a one household dwelling, a detached garage and the subject carport. Freestanding carports are not an allowed accessory structure type. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. Size of Site: 75 feet by 132 feet (9,900 square feet).

3. Existing Zoning (site): “N5” Neighborhood District.
4. **Existing Land Use (site):** The property contains a one household dwelling, a 660-square foot detached garage and a 400-square foot freestanding carport. The garage and carport encompass 22.8% of the 4,650-square foot rear yard.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N5”; Use is a one household dwelling.
   - **South** – “N5”; Uses are one household dwellings.
   - **East** – “N5”; Uses are one household dwellings.
   - **West** – “N5”; Use are one household dwellings.

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

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Oak Park Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Oak Park Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   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 Oak Park Neighborhood mailings were sent to Drew Kelso, 815 East Seneca Avenue, Des Moines, IA 50316.

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:
  - 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. Carport Definition: Section 135-12.5 of the Planning and Design Ordinance defines carports as follows:

   A roofed structure providing space for the parking of moto vehicles and enclosed on not more than two sides. A carport attached to a principal building is considered a part of the principal building and subject to all yard requirements in this chapter.
This definition allows a carport to be constructed so long as it is attached to a principal building and complies with all yard requirements. The subject carport is freestanding. Therefore, it is an accessory structure regulated by Section 135-2.22 of the ordinance.

2. **Accessory Structure Standards:** Freestanding carports are not identified as a permitted accessory structure by Section 135-2.22 of the Planning and Design Ordinance. Outbuildings and detached garages are permitted, but are defined as being “fully enclosed.” Section 135-2.22C provides the definition and standards for outbuildings and detached garages.

   **C. Outbuilding and Detached Garage.** A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds.

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

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

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

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

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

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

3. **Staff Rational:** There are 53 parcels located within 250 feet of the subject property. Staff found that only one of these parcels (1006 Douglas Avenue) contains a carport. Freestanding carports are not a typical element found in the surrounding neighborhood. They were intentionally excluded from the Planning and Design Ordinance as they are not as permanent and aesthetic as an enclosed garage.

III. **STAFF RECOMMENDATION**

Staff recommends denial of the requested Type 2 Design Alternative to allow retention of the subject carport structure.
SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Greg Jones asked if this was labeled a gazebo instead of a car port, would that change anything?

Jason Van Essen stated no.

Greg Jones asked if gazebos are allowed?

Jason Van Essen stated he would need to clarify how the code would interpret a gazebo.

Michael Horsfall, 3815 10th Street stated the main reason he built this was because his wife is severely handicapped and was unsafe for her to walk to the back of their property. He also has a hard time understanding the difference between a carport and a gazebo because a gazebo wouldn’t be enclosed on all 4 sides.

John “Jack” Hilmes asked if he has a handicap permit for the vehicle?

Michael Horsfall stated yes.

John “Jack” Hilmes asked if there was a garage on the property?

Michael Horsfall stated there is very old garage but not safe to park inside of. He will be making upgrades to the garage in the next few months.

CHAIRPERSON OPENED THE PUBLIC HEARING

None were present of requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Carolyn Jenison stated she is still struggling to understand if this was considered a gazebo, would it be allowed.

Erik Lundy stated the reason it’s not considered a gazebo is because motor vehicles are being parked underneath of it.

Jann Freed asked if there are any provisions for handicap parking?

Jason Van Essen stated there is criteria in chapter 135 of the code that allows relief to be granted based on ADA needs.

Greg Jones stated he would like to approve this for handicap assessable use.

John “Jack” Hilmes asked staff to retain a copy of the handicap permit for record.
Mike Ludwig asked if the structure would need to be removed if the permit was no longer in place?

Greg Jones stated he wouldn’t want to do that.

**COMMISSION ACTION:**

Greg Jones made a motion for approval of the requested Type 2 Design Alternative to allow retention of the subject carport structure.

**THE VOTE: 11-0**

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**Item 9**

Request from Living Waters Evangelical Free Church of Des Moines (owner) represented by Wilondja Ernest Msiando (officer) for review and approval of a Type 2 Design Alternative for Public Hearing Site Plan in accordance with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B, for property located at 2904 Kingman Boulevard, to allow reuse of the building for an Assembly, Place of Worship use with deficient number of provided on-site parking spaces and allow waiver of the required curb barriers for the on-site surface parking lot.

(10-2020-7.77)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The subject Site Plan allows for an Assembly, Place of Worship use. The principal auditorium would include 150 seats. Therefore, 25 off-street parking spaces are required (1 space per 6 seats). Given the limited size of the parcel and the placement of the structure, the Site Plan is only able to provide 6 off-street parking spaces, including 1 that is ADA-compliant. Therefore, the applicant has requested a Type 2 Design Alternative to allow for the deficiency of 19 off-street parking spaces less than the required 25 spaces. The applicant has also requested a Type 2 Design Alternative to allow waiver of the required curb barriers for the provided parking spaces. In place of concrete curbing, the applicant is proposing to use landscaping timbers.

2. **Size of Site:** 21,665 square feet (0.50 acre).

3. **Existing Zoning (site):** “P2” Public, Civic, & Institutional District.

4. **Existing Land Use (site):** The site consists of a 4,945-square foot structure most recently occupied by a fraternal lodge.
5. **Adjacent Land Use and Zoning:**

- **North** – “N5”; Uses include Kingman Boulevard and a single household dwelling.
- **South** – “N5”; Use is a single household dwelling.
- **East** – “N5”; Uses include 29th Street and a single household dwelling.
- **West** – “N5”; Use is a single household dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is in the Drake Neighborhood, which is an area consisting of a mix of single-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Drake Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

   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 Drake Neighborhood mailings were sent to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311.

8. **Relevant Zoning History:** The City’s new Zoning Ordinance took effect on December 15, 2019, at which time the property became zoned “P2” District.

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:
  - 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. Required Off-Street Parking Spaces: Table 135-6.4.1 within Chapter 135 of the Municipal Code requires that an “Assembly or Entertainment” use must provide 1 off-street parking space per 6 seats. The appellant has indicated that the proposed “Assembly, Place of Worship” use would have a maximum of 150 seats. Therefore, 25 off-street parking spaces would be required.

The subject property only has the ability to provide six (6) off-street parking stalls given the limited size the of the parcel and the placement of the existing structure. The proposed Site Plan provides four (4) parking stalls within the existing parking lot to the north of the building, including one (1) ADA-compliant stall, and two (2)
stalls along a drive aisle to the south of the building.

Given the inability to provide additional stalls on the site and the unavailability of parking lots in close proximity, the applicant has requested a Type 2 Design Alternative in order to allow for the deficiency of 19 off-street parking spaces less than the required 25 spaces.

Staff believes that it is reasonable to grant this Type 2 Design Alternative since the parcel does not have the ability to provide additional parking stalls on the site or to provide a shared parking agreement for other parking lots in the area. The impact of the proposed use (religious assembly with up to 150 seats) would be minimal due to the availability of on-street parking along both side of Kingman Boulevard and along the east side of 29th Street near the site.

2. Required Curb Barriers: City Code Section 135-6.8.7 requires that all open off-street parking area must provide a 6-inch curb or approved wheel barrier when abutting a landscape area. The applicant has proposed the use of landscape timbers to provide the required curb barriers, which requires approval of a Type 2 Design Alternative. Staff does not believe that it would be appropriate to grant this requires since the proposed landscape timbers would be readily visible from Kingman Boulevard.

3. Building Code: The applicant has indicated that they intend to have a maximum of 150 seats within the building. The Building Code requires a minimum 7 square feet of floor area per seat. Therefore, if the entire 4,945-square foot building were to be used for seating, the building could accommodate 706 people so long as it also satisfies exit and restroom requirements. However, given the limited number of parking spaces, Staff believes that the total occupancy of the building should be limited to 150 seats.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative to allow reuse of the building for an “Assembly, Place of Worship” while providing six (6) off-street parking stalls so long as the use contains seating for no more than 150 people.

Staff recommends denial of the requested Type 2 Design Alternative to allow waiver of the required curb barriers for the on-site surface parking lot. Staff believes that concrete curb barriers should be provided in place of the proposed landscape timbers.

SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Bob Gibson, 3405 SE Crossroad Drive Representing Civil Design Advantage stated when he analyzed the off-street parking, he didn’t account for all spaces knowing they need to leave room for the adjoining homeowners. Although the building can accommodate 150 people, the Church currently has 50 members so aside from special
events they might do, their regular scheduled meetings will not have 150 people attending. Regarding the curb cut, the reason for denial is because the proposed timbers will be seen from Kingman Boulevard. They will have shrub trees and the timbers will be covered with mulch so they will not be visible from Kingman Boulevard. Adding curb barriers to the North doesn’t add value to the church nor the neighbors as they won’t be seen or noticed.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Melanie Sadeghpour, 2912 Kingman Blvd. stated she would like them to add curb barriers for the required set back as the concrete paving crosses over into her property. She would also like the curb barriers to provide protection to her fence and garden as those curbs will prevent water runoff.

Will Page stated that Ms. Sadeghpour’s concerns aren’t addressed in the proposal as curb barriers aren’t being installed in that area.

Melanie Sadeghpour stated her understanding is parking lots require curbing to protect surrounding properties from vehicles and water runoff.

Bert Drost stated they are required to provide a paving set back on the West property line. They could be removing some paving to provide the proposed plantings. He asked Bob Gibson to provide clarification.

Jean Riley, 1016 29th Street stated she has concerns about what the roots from the proposed trees will do to her driveway being only 3 feet away. She also asked them to make sure she isn’t blocked in and no snow is pushed onto her driveway.

Joe Henry stated the people of Living Waters Evangelical Free Church are very respectful and he would like to extend his support.

Jean Riley stated she has seen a lot more than 50 people gathered there and they pack cars in tight.

Laurie Abenbroth, 1010 29th street stated she thinks it’s great for a church to come into the neighborhood but would like to see some property improvements as it has been poorly maintained.

Lawrence Chicchelly, 1021 29th Street stated he would like them to stop parking in the grass area and believes concrete curbing should be used for the entire site as railroad ties are never a permanent fix.

Bob Gibson stated a survey was done and they will be removing 5 feet of paving to allow for the landscape buffer. In regard to the water run-off, they aren’t proposing any changes so it will stay the same or have a slight improvement due to the landscaping buffer. He did have concerns about planting trees along the South but they are required by the City to provide a buffer. Regarding the property being poorly managed, it has been vacant for many years but the improvement’s done to the interior should be
an indication that this site will be well maintained. He wasn’t proposing railroad ties but 8x8 ground treated timbers that would be long lasting. The sidewalk that angles up to the building is also required by the City for ADA access.

Jann Freed asked if they were not open to concrete curbs.

Bob Gibson stated the value compared to the cost doesn’t make sense for something this small.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page asked when the City reviewed drainage concerns, did they consider the paving being removed along the West and South?

Bert Drost stated since they are removing paving rather than adding more impervious surface, they weren’t required to provide a storm water management plan.

Greg Jones stated timber curbs aren’t appropriate and should be concrete.

Jann Freed stated she would agree that timber wouldn’t be a good alternative.

**COMMISSION ACTION:**

John “Jack” Hilmes made a motion for approval of the requested Type 2 Design Alternative to allow reuse of the building for an “Assembly, Place of Worship” while providing six (6) off-street parking stalls so long as the use contains seating for no more than 150 people and **DENIAL** of the requested Type 2 Design Alternative to allow waiver of the required curb barriers for the on-site surface parking lot. The Commission believes that concrete curb barriers should be provided in place of the proposed landscape timbers.

**THE VOTE: 11-0**

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**Item 10**

Request from Helena Industries, LLC (owner) represented by Anthony D. Benedetto (officer) for Review and approval of a Type 2 Design Alternative and Type 1 Design Alternative for Public Hearing Site Plan in accordance with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B, for property located at 3525 Vandalia Road, to allow development of a 35,820-square foot Warehouse/Workshop building where there would be loading and overhead door access within the front yard area, where metal material would be used as an alternative a major material for the primary frontage façade and as a minor material for all other facades, and where the street facing façade does not provide windows to meet minimum requirements for transparency and blank wall limitations.  

(10-2020-7.79)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to expand the existing industrial campus for Helena Industries to add a 35,820-square foot building for chemical processing within a Workshop/Warehouse building. The expansion would be compatible with the existing buildings and buildings under construction using the same exterior design and materials.

2. Size of Site: Approximately 96.67 acres for the area owned by Helena Industries containing their campus and undeveloped land. Approximately 3.30 acres of land proposed to be disturbed for the proposed site development.

3. Existing Zoning (site): “I2” Industrial District for the property of the proposed site development. Other portions of the campus are zoned “EX” Mixed Use District.

4. Existing Land Use (site): Helena Industries chemical processing and production, warehousing and distribution. The undeveloped portion of the site is currently used for agricultural production.

5. Adjacent Land Use and Zoning:
   
   North – “EX”, Uses include salvage yards, vehicle sales, landscaping contractor storage yard and undeveloped land used for agricultural production.
   
   South – “F”, Uses include open space and floodplain for the Des Moines River greenway.
   
   East – “PUD”, Use is Des Moines Cold Storage refrigerated warehouse.
   
   West – “P2”, Use is Wastewater Reclamation Authority treatment plant.

6. General Neighborhood/Area Land Uses: The subject property is located south of Vandalia Road in an area designated as the Agrimergent Business Park just west of the Highway 65/69 bypass.

7. Applicable Recognized Neighborhood(s): The subject property is not located in a recognized neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

8. Relevant Zoning History: On June 24, 2013 the City Council adopted Ordinance No. 15,202 which rezoned the subject property of the proposed development from “M-1” Light Industrial to Limited “M-2” Heavy Industrial District.
   
   On April 8, 2018, the City Council adopted Ordinance No. 15,654 which zoned an additional 48.49 acres immediately to east of the proposed site development area.
from “PUD” Planned Unit Development to Limited “M-2” Heavy Industrial District for Helena Industries.

On September 25, 2019, the Zoning Board of Adjustment approved a Conditional Use Permit by Docket No. ZON2019-00176 allowing expansion of the campus for a 35,000-square foot chemical processing and production facility that is the subject of the proposed development project. This also allowed paving that is within zero (0) feet of the north property line along Vandalia Road.

On October 16, 2019, the City Council adopted Ordinance No. 15,818 repealing the previous City Zoning Map and adopting a new City Zoning map designating the subject property of the proposed development to “I2” Industrial District and property to the east within the campus to “EX” Mixed Use District and property to the west comprising the original campus to “EX” Mixed Use District.


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. DESIGN ALTERNATIVES

1. Type 2 Design Alternative request for Loading and Overhead Door Access within the Front Yard Area of a Warehouse/Workshop Building Type: Section 135-2.9.3.A and 135-4.3.8 of the Planning and Design Ordinance applicable to Workshop/Warehouse buildings within the “I2” District allows for surface loading to occur within rear and interior side yards only and overhead door to have surface loading area within the front yard area between the proposed building and Vandalia Road frontage. The proposal also includes an east facing overhead door accessing this loading area, which is not considered an interior façade because it projects into area in front of a primary frontage façade wall.

2. Type 2 Design Alternative for waiver of Minimum Transparency and Blank Wall Limitations for Primary Frontage Facades of a Warehouse/Workshop Building Type: Section 135-2.9.3.D and Section 135-3.8 of the Planning and Design Ordinance applicable to Workshop/Warehouse buildings in “I2” Districts requires that primary frontage façades have a minimum 12% transparency and prohibit any rectangular area greater than 30% and no horizontal segment of a story’s façade greater than 15 feet to be without transparency on a primary frontage façade. The proposal does not contain any transparency on the primary frontage façade and does not comply with this provision.

3. Type 1 Design Alternative for allowance of Metal Material as a Major Material for the Primary Frontage Façade and as a Minor Material allowed on all other Facades: Section 135-4.2.2 and 135-4.2.3 of the Planning and Design Ordinance applicable to “I2” District in Tables 135-4.1-1 and 135-4.1-2 for Major and Minor Façade materials respectively, do not allow for metal material as a façade material.
unless is comprised of architectural panel systems, composite metal, or Corten metal. The proposal proses façades that are comprised entirely of metal that does not include metal as allowed by these tables.

While alternatives for other materials not listed may be considered per 135-4.1.3 as Type 1 Design Alternatives, staff did not consider that proposed material for 100% of the façades without any use of another major material meets the intent for the material to be human-scale building units. Therefore, the Type 1 Design Alternative was denied. This is now to be considered by the Plan and Zoning Commission as a Public Hearing Site Plan per 135-9.3.4.B.6.

III. STAFF RATIONALE

With regard to the proposed loading and overhead door area, staff believes that the intent and criteria for granting a Type 2 Design Alternative are met. The proposed location of the building and the functionally of the surrounding loading area and overhead door access is necessary within the context of the existing industrial campus. Additionally, the Zoning Board of Adjustment had previously granted the ability for paving in front of the building when the Conditional Use Permit was approved.

With regard to the proposed waiver of minimum transparency and blank wall limitations for the primary frontage façade, staff believes that the requested Type 2 Design Alternative would meet the intent and criteria so long as some measures made to the Site Plan to mitigate the adverse impact that the lack of any transparency on the primary frontage façade would present. Staff believes that providing clear story windows on the front façade such that no horizontally measured segment greater than 15 lineal feet of the primary frontage façade area above 15 feet from grade is without a window opening. This is proximate to the level above the top of one of the overhead doors.

With regard to the proposed use of metal material on all facades, staff believes that the Type 1 Design Alternative would meet the intent and criteria so long as measures are taken with the Site Plan to mitigate the adverse impact created by lack of human scaled building units. In addition to the clear story windows recommended, Staff believes that the primary façade should provide another approved major material such as brick, concrete masonry units, finished concrete, or stone for the first 5 feet above grade along the primary façade and wrapping around the east and west facades for no less than 20 feet.

IV. STAFF RECOMMENDATION

Staff recommends approval of the proposed Site Plan with requested Type 2 and Type 1 Design Alternatives subject to meeting the following conditions:

1. Compliance with all administrative review comments not considered for Design Alternatives.
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2. Provision of clear story windows on the Primary Frontage Façade such that no horizontally measured segment greater than 15 lineal feet of the primary frontage façade area above 15 feet from grade is without a window opening.

3. Provision of an approved Major Material on the Primary Frontage Façade such as brick, concrete masonry units, finished concrete, or stone for the first 5 feet above grade exclusive of door openings wrapping around the east and west facades for no less than 20 feet.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Brent Strauch, 4125 Westown Parkway Suite 100 representing Shive Hattery stated this request comes from Helena Industries and the Project Design Professionals to continue the functionality and aesthetic of the existing Helena campus. The design and materials will match the warehouse that was shown to the Southwest. Another thing to consider tonight would be the extensive landscape buffer they are purposing that will extend back 225 feet off Vandalia Road.

Greg Jones asked if they were not in agreement with condition #2 and #3.

Brent Strauch stated yes. They want to match the existing aesthetic of the campus.

Greg Wattier asked if they have more pictures of the existing buildings they are referencing.

Troy Hugen stated this building was ordered back in December based on existing building codes because they couldn’t find out when the new code would take effect. They have been working on this project since the beginning of 2019 and have 4 other buildings that are currently being built. He did hear comments about durability and wanted to point out they are still using the original steel buildings that were constructed in 1950.

Erik Lundy presented photos of the existing 100,000 sq. feet warehouse.

CHAIRPERSON OPENED THE PUBLIC HEARING

Nobody requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page stated the detailing of the building doesn’t call attention to the linier feeling of the entire site so he feels condition #2 and #3 are not appropriate.

Greg Jones stated he agrees with Will Page’s comments.

Greg Wattier stated it should blend with the existing campus.
COMMISSION ACTION:

Will Page made a motion for approval of the proposed Site Plan with requested Type 2 and Type 1 Design Alternatives subject to meeting the following conditions:

1. Compliance with all administrative review comments not considered for Design Alternatives.

THE VOTE: 11-0

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Item 11

Request from Iowa Department of American Legion (owner) represented by John A. Derner (officer) for review and approval of a Type 2 Design Alternative for Public Hearing Site Plan in accordance with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B, for property at 720 Lyon Street, to allow a surface parking lot to be reconstructed, in a “DX2” Downtown District where new surface parking is not permitted. Also, to consider Type 1 Design Alternatives, denied administratively, to not require existing street light poles to be replaced with new black colored poles and fixtures, and to allow a trash enclosure with a composite board material and without required pedestrian access door or proper landscaping.

(10-2020-7.86)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to reconstruct their parking lot and driveway, as well as upgrade their parking lot lighting. 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: 34,577 square feet (0.79 acre).


4. Existing Land Use (site): The property contains an office building occupied by the applicant.

5. Adjacent Land Use and Zoning:
North – “DX2”; Use is the Interstate 235 corridor.

South – “DX2”; Use is an office building.

East – “P2”; Uses are one household dwellings.

West – “DX2”; Use is a credit union.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Interstate 235 corridor at the northern edge of the East Village. The surrounding area contains a mix of commercial, governmental and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. A notice of the April 16, 2020 electronic/Zoom meeting was mailed on April 3, 2020 to the Drake Neighborhood Association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on April 10, 2020.

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 Historic East Village Neighborhood mailings were sent to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

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

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

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

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

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

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

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

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

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

- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - An evaluation of the character of the surrounding neighborhood, such as:
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. **Parking**: The subject property is zoned “DX2” Downtown District. Section 135-2 of the Planning and Design Ordinance allows the Downtown Storefront, Downtown General, Civic Building and Principal-Use Parking Structure building types in the “DX2” Downtown District. The Downtown General Building Type is the applicable type for this application. It does not allow surface parking lots and requires all parking to take place within the building. Therefore, the proposed parking lot project requires Type 2 Design Alternative review by the Commission.

Staff supports the requested Type 2 Design Alternative to allow parking lot improvements in this case. The site is not being completely redeveloped where parking could be provided within the building. Additionally, the property is located at the periphery of the downtown along the Interstate 235 corridor.

2. **Streetscape Requirements**: Black street light fixtures and poles are the desired development pattern in the downtown as administered through Section 135-7 of the
Planning and Design Ordinance. Development is expected to upgrade street lights in adjoining rights-of-way through the site plan review process. The applicant has not provided any documentation that upgrading street lights in the adjoin rights-of-way would cause a hardship. Staff recommends denial of this portion of the request.

3. **Refuse and Recycling Area Screening:** Section 135-7.10 of the Planning and Design Ordinance requires a gated enclosure that is screened by plant material for all outdoor refuse and recycling areas. Enclosures must be constructed with masonry walls and have a pedestrian entrance that is separate from the main gates. The applicant is proposing to construct an enclosure out of composite boards (aka: Trex decking) attached to a metal frame. A pedestrian entrance and screen plantings are not proposed.

Staff is supportive of the proposed alternative enclosure wall material, the elimination of the pedestrian entrance requirement and the elimination of the landscape screening requirements along the north and west perimeters of the enclosure. The applicant is not redeveloping the site or making improvements to the building. The enclosure would be screened to the north by a large retaining wall and to the west by the existing garage. Staff believes that landscape screening material needs to be provided along the east perimeter of the enclosure. This side of the enclosure will be visible. The applicant has indicated that this will cause the loss of a parking stall.

The applicant is not required to provide a minimum number of parking spaces. Chapter 135 states that parking in the “DX2” District should not exceed the relative ratio established in Table 135-6.4-1. In this case, the relative ratio is 1 space per 400 square feet of floor area for an office use. The existing building measures 7,100 square feet. Therefore, no more than 18 spaces should be provided. A total of 21 are proposed. Providing the landscape buffer along the east edge of the enclosure will not cause a hardship. Staff will approve a Type 1 Design Alternative to allow the parking to exceed 18 spaces following the Commission’s action on the Type 2 requests.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the requested Type 2 Design Alternative to allow the parking lot to be reconstructed.

Staff recommends denial of the requested Type 2 Design Alternative to allow the existing street poles and fixtures to be retained in place of installing black poles and fixtures.

Staff recommends approval of a Type 2 Design Alternative to allow the proposed alternative materials for the refuse enclosure walls, the elimination of the pedestrian entrance requirement and the elimination of the landscape screening requirements along the north and west perimeters of the enclosure.
Staff recommends approval of the proposed Public Hearing Site Plan subject to the following:

a. Revision of the site plan and building elevations to comply with any approved Type 2 Design Alternatives.

b. Revision of the site plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Greg Shuger, 100 Court Avenue Suite 300 Representing Stanley Consultants stated the landscape requirement seemed excessive because they are providing landscaping to the East to allow a screening from Pennsylvania Avenue. He isn’t clear about the pedestrian access door, they have requested relief from a separate access door.

Jason Van Essen stated the staff recommendation would require the applicant to put in the black street light and pole fixtures. Regarding the trash enclosure, staff is saying it is ok not to have the pedestrian entrance but would like landscaping on the east edge of the enclosure.

John Durner stated they are seeking relief from the street lights because they are a non-profit. This project is already a significant financial burden for this organization.

CHAIRPERSON OPENED THE PUBLIC HEARING

None requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

John “Jack” Hilmes asked how many lights poles are proposed and the cost associated?

Jason Van Essen Stated he believes there is 1 on Lyon Street and up to 3 on Pennsylvania Avenue.

Mike Ludwig stated he believes there are 3 poles along Pennsylvania and 1 on Lion Street with an estimated cost between $30,000-$50,000.

Greg Wattier asked when a site plan is required?

Mike Ludwig stated when they remove and replace more than 50% of the parking lot.

John “Jack” Hilmes asked if they were just laying a fresh asphalt, would we be having this discussion tonight?
Mike Ludwig stated there would not be a site plan required for repaving, it would be tearing it up and replacing it.

Greg Wattier asked if they are increasing, decreasing or staying the same in parking lot area?

Jason Van Essen stated it would be staying the same.

John “Jack” Hilmes stated it would actually get smaller as they are removing a spot to add landscaping around the trash enclosure.

Jason Van Essen presented a street view of the property to show all light poles associated with the site.

Will Page stated he would prefer the consistency of the gray steel poles as it causes a dysfunctional vision from the interstate.

Greg Wattier stated he struggles to see why this project needs a site plan as they are knocking out and putting back what’s already there. He would be willing to grant them relief.

COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of the requested Type 2 Design Alternative to allow the parking lot to be reconstructed, APPROVAL of the requested Type 2 Design Alternative to allow the existing street poles and fixtures to be retained in place of installing black poles and fixtures, APPROVAL of a Type 2 Design Alternative to allow the proposed alternative materials for the refuse enclosure walls, the elimination of the pedestrian entrance requirement and the elimination of the landscape screening requirements along the north and west perimeters of the enclosure, APPROVAL of the proposed Public Hearing Site Plan subject to the following:

a. Revision of the site plan and building elevations to comply with any approved Type 2 Design Alternatives.

b. Revision of the site plan and building elevations to comply with all administrative review comments and Type 1 Design Alternatives.

THE VOTE: 11-0

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Committee and Director’s Reports:

Meeting adjourned at 9:35pm