The May 7, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Meeting ID 982 8956 1019.


P&Z ABSENT: Dory Briles and Francis Boggus.

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

John “Jack” Hilmes made a motion to approve the April 16, 2020 Plan and Zoning Commission meeting minutes. Motion carried 10-0-1 (Steve Wallace abstained as he were not present for the April 16 Meeting).

Erik Lundy stated Item #1 will be removed from the consent agenda as a member of the public requested to speak in opposition.

Will Page made a motion to move Item #1 to the Public Hearing. Motion carried 11-0

Jason Van Essen stated Item #4 can be moved to the consent agenda as the applicant agrees with staff recommendation and no response cards were received in opposition.

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

Emily Webb made a motion to move Item #4 to the consent agenda. Motion carried 11-0

John “Jack” Hilmes made a motion to approve Consent Agenda Item #4 per the recommendations in the staff reports. Motion Carried 11-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 4

Request from Des Moines Area Religious Council (DMARC) (purchaser) represented by Matt Unger (officer) for the following for property located at 100 Army Post Road. The subject property is owned by William C. Knapp, LC.

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 Community Mixed Use to Business Park. (21-2020-4.08)
C) Rezone property from “MX2” Mixed-Use District to “EX” Mixed-Use District, to allow for the applicant to consolidate its non-profit food bank distribution operation and headquarters to one location with offices, warehousing and distribution within the existing building.  

(ZON2020-00042)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The Des Moines Area Religious Council (DMARC), a non-profit food bank distribution group, is looking to relocate their headquarters and distribution operations into a single facility at the subject property. The project would consist of approximately 11,500 square feet of remodeled office and conference space, 1,500 square feet of food pantry space, 28,000 square feet of food warehouse and distribution space, and 6,000 square feet of shell tenant space. The proposed operations are not a principal use allowed in the “MX2” District.

2. Size of Site: 149,215 square feet or 3.426 acres.


4. Existing Land Use (site): The site contains a 48,341-square foot building that was originally constructed as a grocery store.

5. Adjacent Land Use and Zoning:
   - **North** – “MX2”; Uses are commercial uses.
   - **South** – “NX2”; Use is a multiple household apartment complex.
   - **East** – “P2”; Use is the Fort Des Moines Museum.
   - **West** – “MX2”; Use is multi-tenant strip commercial center.

6. General Neighborhood/Area Land Uses: The subject property is located on the southwest corner of the Army Post Road and South Union/Chaffee Road intersection in an area that contains a mix of commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is located within 250 feet of the Fort Des Moines Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 17, 2020 and by mailing of the Final Agenda on May 1, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on April 17, 2020 (20 days prior to the public hearing) and April 27, 2020 (10 days prior to the public hearing) to the Fort Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.
All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fort Des Moines Neighborhood Association notices were mailed to Scott Durham, 301 East Kenyon Avenue, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.

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

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

II. ADDITIONAL APPLICABLE INFORMATION

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

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

The applicant is proposing to rezone the property from “MX2” Mixed-Use District to “EX” Mixed-Use District. The Zoning Ordinance states that “EX is intended for locations and corridors with a mix of light industrial and heavier commercial uses, accommodating higher levels of vehicular traffic than MX districts, a predominance of mid-scale employment uses, such as office, low intensity industrial, and warehouse spaces associated with office.” Building types allowed in this district include the Commercial Cottage, General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The proposed “EX” District zoning requires the “Business Park” designation on the Future Land Use Map. Plan DSM describes this designation as follows:

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

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

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 “EX” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use.”

Part B) Staff recommends amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from “Community Mixed Use” to “Business Park.”

Part C) Staff recommends approval of rezoning the subject property from “NX2” Mixed-Use District to “EX” Mixed-Use District subject to the site being brought into conformance with current landscaping standards with any site plan.

### SUMMARY OF DISCUSSION

Jason Van Essen stated Item #4 can be moved to the consent agenda as the applicant agrees with staff recommendation and no response cards were received in opposition.

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

Emily Webb made a motion to move Item #4 to the consent agenda. Motion carried 11-0

### COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of Part A) the proposed rezoning to “EX” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use, APPROVAL of Part B) amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from “Community Mixed Use” to “Business Park” and Part C) APPROVAL of rezoning the subject property from “NX2” Mixed-Use District to “EX” Mixed-Use District subject to
the site being brought into conformance with current landscaping standards with any site plan.

THE VOTE: 11-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Casey’s Marketing Company (lessee) represented by Marni Beck (officer) for review and approval of a PUD Final Development Plan “Casey’s Store No. 1192” for property located at 3200 Southwest 9th Street, to allow redevelopment of the existing 21,664-square foot general food sales store with a 4,817-square foot gas station/convenience store to include a pump island canopy with 14 fueling locations. The subject property is owned by Tursi, LC. (10-2020-7.93)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: Development of a 4,817-square foot limited retail sales store with fuel station having a pump island canopy for 14 vehicle fueling locations. The store would sell packaged wine and beer.

2. Size of Site: 2.12 acres.

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

4. Existing Land Use (site): Vacant grocery store.

5. Adjacent Land Use and Zoning:

   North – “MX1” & “N5”; Uses are a barber shop and single-family dwellings.

   South – “MX1”; Use is the Park Avenue Plaza commercial center.

   East – “MX1” & “P2”; Uses are Park Avenue Christian Church, Des Moines Vacuum, and Sellers Trustworthy Hardware Store.

   West – “N3a”; Uses are single-family dwellings.

6. General Neighborhood/Area Land Uses: The subject site is located on the Southwest 9th Street commercial corridor at the intersection with Park Avenue. This
is considered a Neighborhood Node with a grocery store, a commercial center, a church, and a public elementary school located at the intersection.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Grays Lake Neighborhood and within 250 of the Indianola Hills and Watrous Heights Neighborhoods. The neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on April 17, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on April 27, 2020 (10 days prior to the original public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division at the time of the mailing. The Grays Lake Neighborhood Association notices were mailed to Rick Trower, 1310 Broad Street, Des Moines, IA 50315. The Indianola Hills Neighborhood Association notices were mailed to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315. The Watrous Heights Neighborhood notices were mailed to David Johnston, 604 Philip Street, Des Moines, IA 50315.

8. **Relevant Zoning History:** On January 27, 2020 by Ordinance No. 15,857, the City Council rezoned the property to “PUD” Planned Unit Development to allow for development of the property for a gas station/convenience store with sales of wine and beer.

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Drainage/Grading:** The applicant has provided for a storm water management in accordance with Site Plan requirements in Section 135-8.3.2 of Chapter 135 of the City Code. Because the site would be over an acre in area, water quality detention is required as is a Storm Water Pollution Protection Plan approved by the Iowa DNR. The developer has provided this with Sheet C-401 of the submitted Final Development Plan. Development of the site must comply with the Tree Preservation and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

Underground stormwater storage chambers are proposed on the northwest portion of the site to manage required stormwater detention (see Sheet C-201 of submitted
Final Development Plan). These chambers would outlet into public storm sewer available in Park Avenue at the northwest corner of the site.

2. **Street System:** A traffic study was prepared by the developer. The City Traffic and Transportation Division has reviewed the report and has recommended that left turn movements on the eastern driveway to Park Avenue be limited to right-in, right-out only. This has been accommodated with the submitted Final Development Plan. There were no other recommendations that would require modifications to the adjoining streets or intersection. The submitted Final Development Plan indicates sidewalk that would partially encroach into the private property. Public pedestrian easements should be provided on the Final Development Plan in these locations.

3. **Parking:** The City’s standard off-street parking requirement for retail uses with fuel sales is 1 parking space per 300 square feet. This would require a minimum of 17 spaces for a 4,817-square foot building. A total of 27 parking spaces are proposed. The proposed Final Development Plan does need to show the necessary cross access easements between the site to the south to allow the use of the shared southeastern driveway.

4. **Design Guidelines:** The approved PUD Conceptual Plan requires that the proposed convenience store project be developed in accordance with the City’s Gas Station/Convenience Store Site Plan Design Guidelines that were contained the previous Site Plan Ordinance applicable at the time of the rezoning. The following are the guidelines as listed in former Chapter 82 of the City Code (Section 82-214.8) with staff comments as appropriate in italics.

   **Site Design**

   A. The optimal layout of any individual site requires an in-depth understanding of local context and a thorough site analysis. The components of a gas station and convenience store to be considered in site design include, but are not limited to:
      (i) Primary structure/retail sales building/single or multiple tenant;
      (ii) Pump island, canopy structure, and lighting;
      (iii) Refuse, service and storage area;
      (iv) Circulation systems and parking;
      (v) Service bays;
      (vi) Ancillary uses such as car washes, drive through uses, ATMs and telephones.

   Staff believes the proposal would generally meet this guideline. The submitted Final Development Plan provides for pedestrian-oriented adjoining Class “A” sidewalks, outdoor seating and bicycle racks. The site has substantial frontage towards both Southwest 9th Street and Park Avenue and has residential development to the west. The layout is in accordance with the approved Conceptual Plan, which was determined consistent with the form contemplated in the Southwest 9th Street Corridor Plan for an expansion of the existing grocery store building.
B. Maximum size of site should not exceed two (2) acres without a rezoning to a PUD Planned Unit Development pursuant to Chapter 134, Division 13 of the Municipal Code of the City of Des Moines and site review under a Conceptual Plan approved by the Plan and Zoning Commission and City Council.

The proposal complies with this guidelines as the site measures 2.12 acres and the property was rezoned to a what is now a Legacy “PUD” District.

C. Minimum open space should be 20% of the site or 1,000 square feet per vehicle fueling location, whichever is greater.

The site measures 92,347 square feet and would contain 14 fueling locations. A minimum of 18,470 square feet of open space is required to meet this guideline. The submitted Final Development Plan shows that the site would have at least 29,507 square feet (31.95% of site) of open space. This meets and exceeds this guideline.

D. All development proposals should show evidence of coordination with the site plan as well as arrangement of buildings and planning elements of neighboring properties by:

(i) Responding to local development patterns and the streetscape by use of consistent building setbacks, orientation and relationship of structures to the street and linkages to pedestrian facilities;
(ii) Seeking shared-access with adjoining commercial uses where feasible to minimize curb cuts and enhance pedestrian and vehicular circulation;
(iii) Minimizing cross traffic conflicts within parking areas.

Dedicated pedestrian routes are shown and provided from the both Southwest 9th Street and Park Avenue sidewalks to the building.

The site is separated from other commercial properties by streets. Therefore, shared driveways and circulation points are not necessary. Shared access would be maintained for the commercial center adjoining to the south.

E. The site plan shall mitigate the negative impacts from site activities on adjoining uses as follows:

(i) Service areas, storage areas and refuse enclosures should be oriented away from public view and screened from adjacent sites;
(ii) Drive-through windows, menu boards and associated stacking lanes should be oriented away from residential areas or screened from public view;
(iii) Auto repair bay openings and car-wash openings should be oriented away from residential uses;
(iv) Lighting should be non-invasive to adjoining residential use.
The proposed trash enclosure and can recycling crusher would be located at the west rear of the site and in the least visible portion of the site.

F. The site plan shall provide identifiable pedestrian access from adjoining public pedestrian routes through the site to the primary building and from accessory functions within the site. This can be accomplished by use of special paving colors or textures and appropriately scaled lighting.

Pedestrian routes to the building are identified to the public sidewalk system on both public streets.

Architecture

A. The following architectural guidelines encourage creative response to local and regional context and contribute to the aesthetic identity of the community.

B. Building design should consider the unique qualities and character of the surrounding area and be consistent with the city’s 2020 Character Area Plans (this is superseded by PlanDSM). Where character is not defined by 2020 Community Character Plan, building design should be of a high quality with primary use of durable materials such as masonry, block, or stone.

C. A facility occupying a pad or portion of a building within a larger commercial center should be designed to reflect the design elements of that center.

D. Drive-through elements should be integrated into the building rather than appear to be applied or “stuck-on” to the building.

E. All sides of a building should express consistent architectural detail and character, with a primary use of durable materials such as brick, masonry block, or in special instances a predominant material found in the surrounding commercial area. Columns should be designed to minimize visual impact.

F. Walls, pump island canopies and other outdoor covered areas should be compatible with the building, using similar material, color and detailing.

G. To encourage visually interesting roofs, variations in the roof line and treatments such as extended eaves and parapet walls with cornice treatments are encouraged.

H. Perceived height and bulk should be reduced by dividing the building mass into smaller-scaled components. Examples of treatments that could be used to avoid excessive bulk and height include:

(i) Low-scale planters and site walls.
(iii) Clearly pronounced eaves or cornices.
(iv) Subtle changes in material color and texture.
(v) Variation in roof forms.
(vi) Covered pedestrian frontages and recessed entries.
(vii) Deeply set windows with mullions.

All facades of the proposed building would be sided with brick and stone and would have and architectural panel system above the first-floor ceiling over the entrance.
The proposed building design includes wall plane variation and parapet wall height on the street facing facades.

I. Canopies:

   (i) Integration of materials on canopies that are similar or compatible to those used on the building or site walls is desirable (e.g., wrap the canopy columns with brick that matches the building). Multiple canopies or canopies that express differing masses are encouraged.

   The proposed fuel pump island canopy would be sided with metal and supported by metal columns clad with brick to match the building. The canopy has a raised articulation to break up the long linear pump array that is proposed.

   (ii) Canopy height should not be less than 13'-9" as measured from the finished grade to the lowest point on the canopy fascia. The overall height of canopies should not exceed 18'.

   The submitted information indicates the total canopy height would be approximately 21-feet 9-inches to accommodate the raised articulation in the center. The majority remainder of the canopy would be at 16-feet 9-inches in total height. The height of the underside clearance of the canopy would 13-feet 9-inches. The fascia are proposed to be at 3-feet in height.

J. All display items for sale, excluding seasonal items (i.e., sand, salt, pop, firewood) should be located within the main building. All outdoor display of seasonal items shall be identified on the site plan and be located outside of any required setbacks. No display of seasonal items should exceed 5' in height.

   The staff recommends that proposed seasonal outdoor display locations be established on the Final Development Plan.

Landscape Design

A. Landscaping is integral to the overall design concept and should be carefully planned to enhance the overall appearance and function of the site.

B. Landscape buffers with screen fencing should mask the site from adjacent residential uses. Plantings that exceed the minimum Des Moines Landscaping Standards may be required.

C. Dense landscaping or architectural treatments should be provided to screen unattractive views and features such as storage areas, trash enclosures, utility cabinets and other similar elements.

D. A site design for projects located at a street intersection should provide special landscape treatments, including by way of example perennial plant beds, site walls, native grasses, decorative sign foundations and housing.

E. Proper maintenance and timely replacement of plant material is required and will be enforced based on the approved site plan.
F. Monument signs are encouraged and are required when the site adjoins a residential district.

The submitted Final Development Plan has shown landscaping in accordance with the former “C-2” District requirements as required in the approved PUD Conceptual Plan. The submitted Final Development Plan complies with this including providing a Class A sidewalk with tree planters. City staff are working with Des Moines Water Works regarding the placement of the trees in proximity to the water main in Park Avenue. In either instance if a tree cannot be provided the planter bed would require other plant material. The Final Development Plan should show a significant landscape feature at the intersection to meet the design guideline. This could be accomplished by berming up the proposed monument sign and adding perennial beds, a concentration of shrubs, ornamental grasses or a combination of those strategies.

The Final Development Plan includes a note that states “the required landscaping shall be maintained for the life of the certificate of occupancy or certificate of zoning compliance.”

The submitted Final Development Plan includes a monument style sign in conformance with this guideline.

**Lighting**

A. Lighting of gas stations and convenience stores should enhance safety and provide light levels appropriate to the visual task with minimal glare, light trespass and excess site brightness. Lighting should not be a nuisance or a hazard.

B. Direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 footcandles for residential, 2.0 footcandles for commercial). The site plan must contain illuminance models showing light levels throughout the site.

C. Light fixtures mounted under canopies should be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy. Generally, lights shall not be mounted on the top or sides (fascias) of the canopy and internally illuminated/entirely translucent canopies should be prohibited. However, accent lighting on the sides (fascias) of the canopy may be permitted.

D. Parking Lot and Site Lighting:
   (i) All luminaries should be of full cut-off design, aimed downward and away from the property line;
   (ii) Maximum pole heights should not exceed 20’.

F. Building-Mounted Lighting:
   (i) All luminaries should be a full cut-off design and aimed downward.
(ii) All luminaries should be recessed or shielded so the light source is not directly visible from the property line.

The approved Conceptual Plan includes a note that states “all site lighting will be in compliance with the lighting standards of City Code Section 82-214.8 to the satisfaction of the Community Development Director” and that “lighting shall consist of low-glare cut off type fixtures to reduce the glare of light pollution on surrounding area.” Lighting would be reviewed in detail during the site plan phase. The submitted photometric with the Final Development Plan generally demonstrates compliance. However, it indicates a few spot locations along Park Avenue where the readings outside the property line indicate higher than the 2.0 footcandle maximum. The proposed lighting would need to be adjusted so that the photometric model complies with this provision.

III. STAFF RECOMMENDATION

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

1. Compliance with all administrative review requirements for the Final Development Plan in accordance with the previously approved PUD Conceptual Plan.

2. Provision of Public Pedestrian Easements in locations where the public sidewalk would encroach into the site.

3. Provision of cross access easements on the Final Development Plan to ensure share use of the southeastern driveway and parking maneuvering with the commercial center to the south.

4. Provision of a signature landscape feature at the intersection of Southwest 9th Street and Park Avenue in compliance with the requirements of the PUD Conceptual Plan.

5. Designation of seasonal merchandise display areas.

6. Modification of the lighting to ensure that it complies with maximums of 2.0 footcandles at property lines across the street or adjoining commercial use and 0.5 footcandles across from or adjoining residential use.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Greg Broussard stated he didn’t have anything to add after the staff presentation. He is open to any questions the commission may have.

Emily Webb asked if there are any staff recommendations they are not in agreement with?
Greg Broussard stated they agree with all staff recommendations.

CHAIRPERSON OPENED THE PUBLIC HEARING

Thomas Nichols, 933 Caulder Avenue stated he believes there are enough convenience stores on SW 9th Street. He would like to see another grocery store and the City should try harder to fill this space with a discount grocery store.

Mike Ludwig stated this is a review to determine whether final development plan is consistent with the PUD zoning and conceptual plan that has already been approved by Council. The debate for the use of the property occurred several months ago during the hearing on the rezoning of the property. During the rezoning hearing, the SW 9th business group was in full support and the proposal was found to be consistent with the SW 9th Corridor plan.

Greg Broussard stated he does not have any further comments at this time.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if there will be illuminated lighting on the facia of the canopy?

Erik Lundy stated this project does not have illuminated lighting within the canopy facia. That design guideline is to allow for something like a neon band across the canopy.

COMMISSION ACTION:

Rocky Sposato made a motion for approval of the proposed PUD Final Development Plan subject to the following conditions:

1. Compliance with all administrative review requirements for the Final Development Plan in accordance with the previously approved PUD Conceptual Plan.

2. Provision of Public Pedestrian Easements in locations where the public sidewalk would encroach into the site.

3. Provision of cross access easements on the Final Development Plan to ensure share use of the southeastern driveway and parking maneuvering with the commercial center to the south.

4. Provision of a signature landscape feature at the intersection of Southwest 9th Street and Park Avenue in compliance with the requirements of the PUD Conceptual Plan.

5. Designation of seasonal merchandise display areas.

6. Modification of the lighting to ensure that it complies with maximums of 2.0 footcandles at property lines across the street or adjoining commercial use and 0.5 footcandles across from or adjoining residential use.
THE VOTE: 12-0

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Item 2

City initiated public hearing regarding proposed adoption of amendments to the approved Zoning Ordinance in Chapter 134 of the City Code relating to Lodging – Short-Term Commercial Rental uses. (10-2020-5.02)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed ordinance to amend the approved Zoning Ordinance (City Code Chapter 134) is attached.

On October 16, 2019, the Des Moines City Council approved final consideration of Ordinance #15,816 (Chapter 134 - Zoning Ordinance. This ordinance became effective on December 15, 2019.

At a City Council workshop on October 16, 2019, Staff was directed to draft revisions to the short-term rental regulations that are contained in the City’s new Zoning Ordinance.

On January 16, 2020, the Plan & Zoning Commission reviewed proposed amendments relating to Short-Term Commercial Rental Lodging use in Section 134-3.5.12 [C] that included the following:

- Allow a Short Term Commercial Rental Lodging use to be utilized for assembly use only if approved by the Zoning Board of Adjustment.
- Require a Short Term Commercial Rental Lodging use owner or manager that resides outside of Polk County or any county contiguous to Polk County to designate an authorized management agent who is at least 18 years of age who and a resident of Polk County or any county contiguous to Polk County.
- Revise the required guest registration information that must be provided to the City upon request.
- Eliminate requirements for a minimum number of days that the Short Term Commercial Rental Lodging use must be occupied by the owner.
- Eliminate requirements on the total maximum number of days a Short Term Commercial Rental Lodging use can be rented annually.
- Clarify that one short term rental is allowed per single-household detached structure or structure containing between 2 and 9 households.
- Clarify that the rounding provisions for calculating the percentage of units in multi-household exclude the whole number “0”.

On February 24, 2020, the City Council received the Plan & Zoning Commission’s recommendation, but deferred the public hearing on the proposed amendments to May 18, 2020. At that time, Council directed City Staff to draft additional revisions. The additional revisions proposed to Section134-3.5.12[C] at this time include the following:

- Requires that a short-term rental have an owner that resides in Polk County or any county contiguous thereto, or have a manager, managing member, director or similar representative resides in Polk County or any county contiguous thereto in the event that the owner is a company or corporate entity.
- Requires that a minimum of one off-street parking space, compliant with chapter 135 of this code, shall be provided and assigned onsite by the owner or authorized management agent of each short-term rental for each bedroom or sleeping area contained in the short-term rental.
- Requires each lot line of a lot containing a short-term rental use for which a conditional use application has been filed with the community development director after August 30, 2020, must be separated by at least 700 linear feet from any lot line of any other lot containing a short-term rental use. This does not apply to short-term rentals within a multiple-household residential structure that contains more than 9 household units.
- Requires any short-term rental in a NX2a district shall be owner-occupied or associated with an owner-occupied principal residential structure, or tenant-occupied or associated with a tenant-occupied principal residential. This does not apply to short-term rentals within a multiple-household residential structure that contains more than 9 household units.

Requires that any short-term rental shall be limited in duration to 10 years from the date that a conditional use is approved by decision and order of the board of adjustment, with the option to apply to the board of adjustment for renewal.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the proposed amendments to the approved Zoning Ordinance.

**SUMMARY OF DISCUSSION**

SuAnn Donovan presented staff report and recommendation.

Jacqueline Easley asked what Council’s discussion was around Sherman Hill being the only neighborhood that requires owner occupancy of the short term rental unit.

SuAnn Donovan stated Council discussed if Sherman Hill should be treated differently by the ordinance and have every unit in that district be owner occupied. Council did direct staff to place that provision in the ordinance based upon support by the neighborhood association.

Jacqueline Easley asked if any other neighborhood requested that?
SuAnn Donovan stated she isn’t aware of any other request besides Sherman Hill.

Mike Ludwig asked if the 700-foot separation requirement applies to anything with 9 or fewer units?

SuAnn Donovan stated that is correct.

Will Page asked if 1 off street parking spot is required for each room within the unit?

SuAnn Donovan stated correct.

Will Page asked how they will handle the compliance of that?

SuAnn Donovan stated most compliance is handled through complaints but they will be required to show that off street parking spot on the site plan when they are in front of the Zoning Board of Adjustment.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Diane Graham, 635 46th Street read submitted letter verbatim in opposition to the proposed revisions to the short term rental ordinance.

Jacqueline Easley asked if a formal request from the Ingersoll Neighborhood had been submitted to require owner occupied short term rental units?

Diane Graham stated no as the Ingersoll Neighborhood board hasn’t met in a long time.

Carlie Hamilton, 678 45th Street read submitted letter verbatim in opposition to the proposed revisions to the short term rental ordinance.

David Schlarmann, 1503 Center Street stated he is part of Sherman Hill Board of Directors and they strongly support short-term rentals if they are owner-occupied units. They do not see a reason for placing a 700-foot separation requirement on owner-occupied units but would like that placed on non-owner-occupied units.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

SuAnn Donovan stated the guidelines before the Commission tonight were presented to Council and was the direction staff was given. She doesn’t have any further comments but would take any questions the Commission may have.

Jann Freed stated she would like to see the renewal period be less than 10 years and does understand the concern around the 90-day grace period.

SuAnn Donovan stated there are some short-term commercial rentals that have been in business and are doing a good job. They may be within that 700-foot separation and
should be given the chance to come in within the 90-day grace period without seeking a use variance. It would be difficult for staff to manage the amount people coming in for a conditional use approval from an equity standpoint. In regard to the 10-year renewal process, Council thought that amount of time was sufficient for the owner to get a return on their mortgage investment before returning it to an owner-occupied status. That doesn’t mean the Board of Adjustment wouldn’t take a second look if the property was to become a problem.

Abby Chungath asked what type of violations lead to revoking the condition use permit and what makes an illegal short-term rental.

SuAnn Donovan stated before December 16, 2019 no short-term rentals were legal in the City of Des Moines. It has led us to where we are tonight once we started discussion on how to manage these short-term rentals. Regarding violations, it comes down to building a case that is strong enough to stand up in court.

Will Page stated a 10 year approval period is a long time. He believes is would be better for surrounding property owners to reduce it to 5 years.

Jann Freed stated she tends to agree with Will. 10 years is too long for an approval period.

Abby Chungath stated 5 years would be a good medium ground.

John “Jack” Hilmes stated he doesn’t understand the 90-day amnesty period.

SuAnn Donovan stated during the 90-day amnesty period, they will not need to worry about the variance of separation but that doesn’t mean the Board of Adjustment will automatically grant the condition use approval. Also, issues the neighbors raise will still be relevant to the Board.

Jann Freed asked for clarification around density requirements.

SuAnn Donovan stated Short-Term Commercial rental properties can drive up the cost of rent in communities. This is a way to put a cap on rental prices and preserve low income and rental market.

**COMMISSION ACTION:**

Will Page made a motion for approval of the proposed amendments to the approved Zoning Ordinance with the expectation of any short-term rental shall be limited in duration to 5 years from the date that a conditional use is approved by decision and order of the board of adjustment, with the option to apply to the board of adjustment for renewal.

**THE VOTE:** 11-1-0 (Rocky Sposato voted in opposition)
Item 3

Request from Greater Des Moines Habitat for Humanity, Inc. (owner) represented by Tami Kreykes (officer) for review and approval of a Type 2 Design Alternative in accordance with Chapter 135 Section 135-9.2.4 and 135-9.3.1.B, for property located at 1609 Washington Avenue, to allow a One Household House Type D dwelling in an “N5” Neighborhood District to be constructed on the property without a garage. (BLD2020-00367)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new one-household dwelling on the property without provision of a 288 square-foot garage as required by Section 135-2.16.3.E.5. 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: 50 feet by 132 feet (6,600 square feet).

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

4. Existing Land Use (site): The property is currently vacant. Pre-existing site trees have recently been removed.

5. Adjacent Land Use and Zoning:

   North – “N5”; Uses are one-household dwellings.
   South – “N5”; Uses are one-household dwellings.
   East – “N5”; Use is a one-household dwelling.
   West – “N5”; Use is a one-household dwelling.

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

7. Applicable Recognized Neighborhood(s): The subject property is in the Mondamin Presidential Neighborhood. A notice of the May 7, 2020 electronic/Zoom meeting was mailed on April 17, 2020 to the Mondamin Presidential 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 27, 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 Mondamin Presidential Neighborhood mailings were sent to Rhonda L. Cason, 1819 Jefferson Avenue, Des Moines, IA 50314.

8. Relevant Zoning History: N/A.


10. Applicable Regulations: Section 135-2.16.3.E.5 states that a minimum 288 square feet garage is required for each House D building type and each unit of a 2-unit House D. A Type 1 design alternative for reduction in the size of garage or waiver of garage requirement may be approved subject to provision, in lieu of the required garage, a minimum 120 square foot storage shed constructed with a foundation or concrete slab and with building materials matching the principal household dwelling on the property, and subject to determination by the community development director that the character of the surrounding area allows for a reduction in size or waiver of the required garage based on one the following:

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

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

For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination by the community development director will be based upon the assumption that such lots, as if developed, contain the required minimum 288 square foot garages for each House D building, and each unit of a 2-unit House D, thereon.

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

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

- Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic 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. Accessory Structure Standards: Section 135-2.22.C provides the definition and standards for outbuildings and detached garages.

   C. Outbuilding and Detached Garage. A fully enclosed building on a lot that is detached from the principal structure on the same lot. A principal structure is required, unless otherwise stated. Typical outbuildings include detached garages, pool houses, workshops, barns, or sheds
1. **Side and Rear Setback.** Minimum side and rear setback of an outbuilding shall be five feet.

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

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

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

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

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

2. **Staff Rationale:** There are 49 parcels located within 250 feet of the subject property. Staff found that 28 (57%) of these parcels met the classification of having a garage structure or are vacant and assumed to have a 288 square foot garage in the future pursuant to Section 135-2.16.3.E.5. In addition, 1 of 2 lots on either side of the subject property (50%) have a garage meeting or exceeding the minimum code requirement. The purpose of this requirement in the Zoning Ordinance is to ensure all properties provide suitable storage of vehicles, equipment, refuse and recycling disposal bins, etc.

The following Type 1 Design Alternatives have already been approved by staff:

a. A 14.6% reduction in required finished floor area of a 1.5-story house without a full basement has already been approved by staff as a Type 1 design alternative.

b. Reduction of required street tree in Washington Avenue right-of-way due to overhead utility lines subject to the provision of one ornamental tree in the front yard and two evergreen trees in the rear yard.

c. Reduction of the overall required story height of the building.

Staff believes that a minimum 288 square feet garage is necessary on this property to provide essential storage. The combination of a primary structure that has less than the minimum code requirement for square footage, without a full basement and with a 10-foot by 12-foot shed in the rear yard will not provide an appropriate amount of storage for the property. Additionally, it is within the character of the surrounding area for one-household dwellings to feature a garage. Allowing a newly-constructed dwelling to omit this character element will negatively impact the neighborhood’s existing character and will reduce the long-term appreciation in value for this property.
III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to allow construction of a new one-household dwelling unit on the property with a 10-foot by 12-foot shed instead of a garage.

SUMMARY OF DISCUSSION

Katherine Dostart presented the staff report and recommendations.

Greg Wattier asked what the required square footage is for the area.

Katherine Dostart stated it was a 14.6% reduction that equals 52 square feet. Lance Henning with Habitat for Humanity should have those numbers.

Lance Henning, Executive Director for Habitat for Humanity presented a Power Point presentation to the commission.

Mike Ludwig stated one of the reasons staff recommended denial is because City Code requires staff to count vacant lots as assumed to have garages.

Lance Henning stated he understand the vacant lots do take it over 50% garages within 250 feet.

CHAIRPERSON OPENED THE PUBLIC HEARING

CHAIRPERSON CLOSED THE PUBLIC HEARING

Emily Webb stated she was questioning the garage requirement when the commission was discussing the new Zoning Code back in December for this very reason. She would be in favor of eliminating the garage requirement in this instance.

Rocky Sposato stated he supports what Emily Webb said.

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested Type 2 Design Alternative to allow construction of a new one-household dwelling unit on the property with a 10-foot by 12-foot shed instead of a garage.

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

Michael Ludwig stated that the P&Z would continue to hold virtual hearings through the month of May. After that is yet to be determined.

Meeting adjourned at 7:42pm