The June 18, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Meeting ID 956 0202 1905.


P&Z ABSENT: John “Jack” Hilmes

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

Jacqueline Easley made a motion to approve the June 4, 2020 Plan and Zoning Commission meeting minutes. Motion carried 12-0-1 (Lisa Howard abstained as she wasn’t present for the June 4 meeting).

CONSENT AGENDA PUBLIC HEARING ITEMS

There were no consent agenda public hearing items to consider.

PUBLIC HEARING ITEMS

Item 1

Request from Badawi Pizza Company, Inc. (owner) represented by Fouad Berry (officer) for review and approval of a Site Plan “Little Caesar’s” requiring the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B for property located at 3727 Southeast 14\(^{th}\) Street, to allow development of a Restaurant within a 6,000-square foot Storefront Type building. (10-2020-7.101)

A) Placement of the building outside of the 0-5 foot primary frontage build-to zone,

B) Provision of on-site parking within the front yard area of the building,

C) Provision of a second access drive,

D) Use of metal material as a major façade material.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a storefront building and surface parking lot. The building would contain four (4) tenant bays. A restaurant is proposed for the northernmost bay. Tenants for the remaining bays are unknown at this time. The development would be served by a frontage drive that runs along the east side of SE 14\(^{th}\) Street. 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:** 74,230 square feet (1.7 acre).
3. **Existing Zoning (site):** “MX3-V” Neighborhood Mix District with Vehicle Sales and Rental Display Limitation and “N3a” Neighborhood District. Most of the property is zoned “MX3-V” District. The easternmost 8,400 square feet of the site is zoned “N3a” District. Storm water detention would occur in the N3a area but no commercial activity would. Therefore, the proposed use is allowed by the existing zoning.

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

5. **Adjacent Land Use and Zoning:**
   - **North** – “MX3-V”; Use is a tire sales and repair business.
   - **South** – “MX3-V”; Use is an auto repair shop.
   - **East** – “N3a”; Uses are one household dwellings.
   - **West** – “NX2”; Uses are multiple household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the east side of SE 14th Street to the south of the Indianola Avenue intersection and to the north of East Watrous Avenue. The surrounding area contains a mix of commercial uses as well as one household and multiple household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within 250 feet of the South Park Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on May 29, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 8, 2020 (10 days prior to the original public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to all recognized neighborhoods on June 12, 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 South Park Neighborhood Association mailings were sent to Jan Goode, 4501 SE 6th Street, Des Moines, IA 50315.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use and 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. **Building Design:** The applicant is proposing a Storefront Building type that would face towards SE 14\(^{th}\) Street. The building would be separated from the street by a frontage road and a double-loaded surface parking lot. In the “MX3” District, this building type must be constructed within 5 feet of the front property line, which is located along SE 14\(^{th}\) Street and not the frontage road.

The building would setback approximately 136 feet from the front property line and approximately 86 feet from the frontage road. Staff supports approving a Type 2 Design Alternative to allow the building to be placed to the east of the frontage road. However, staff believes the building should be placed in close proximity to the frontage road, treating it as if it is the street. The building on the property to the north was constructed in this manner.

Staff would support orienting the building with the tenant bays facing towards the south with the western most tenant bay having an entrance facing the street and parking lot to the south, or orienting all tenant bays towards the street and allowing parallel parking along the frontage road and additional parking behind the building. The applicant has indicated that they prefer the proposed layout as it requires the least amount of grading and retaining walls.

The proposed metal panel and metal system siding appear to qualify as a Minor Façade Material. Staff has requested additional product information for confirmation. Section 135-4.2 of the Planning and Design Ordinance allows up to 60% of a facade to be sided with architectural metal panel systems so long as a Major Façade Material is used at grade up to two (2) feet and adjacent to entrances. The proposed design exceeds the 60% maximum on the rear and side facades. In addition, the material is proposed to extend to grade and would be located by doors. Staff believes the proposed amount of metal siding fits with the overall architectural character of the design. However, staff is concerned about the durability of the siding at grade level and believes masonry or concrete should be provided for the bottom two feet of the side and rear facades.

2. **Access and Parking:** The Storefront Building type in the “MX3” District does not allow parking in the front yard and limits the proposed development to a single driveway. The proposal includes front yard parking and two driveways. If the building is oriented as recommended in Section III of this report, a second driveway is not required. Staff only supports parking in the front yard if it is parallel parking along the frontage road. This would have the appearance of on-street parking.

The site plan does not include a separated pedestrian route from the site to the public sidewalk along SE 14\(^{th}\) Street. Staff believe that it is a possible to construct a sidewalk from the site to the public sidewalk and recommends this be done as a condition of approval.
III. STAFF RECOMMENDATION

Staff recommends approval of issuing Type 2 Design Alternatives and approval of the proposed Public Hearing Site Plan subject to the following:

1. The building shall be placed in close proximity to the frontage road. Parallel parking may be constructed along the frontage road if the building is oriented with the storefronts facing the frontage road. Parking shall be limited to the side and rear of the building if the building is oriented with the storefronts facing a side property line provided the western most tenant bay has an entrance facing SE 14th Street.

2. Review and approval of the finalized building placement and parking layout by the Planning Administrator.

3. Provision of masonry or concrete siding for the bottom two (2) feet of the side and rear facades.

4. Provision of a pedestrian route from the building to the SE 14th Street sidewalk to the satisfaction of the Planning Administrator.

5. Removal of the unused drive approach to SE 14th Street with restoration of the curb line and turf where the approach is removed.

6. Revision of the site plan and building elevations to comply with all administrative review comments.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Jacqueline Easley asked what concerns were raised from the adjoining neighbors?

Jason Van Essen stated the impact of an easement on a driveway located on the applicant's property, buffering requirements and storm water detention.

Caleb Smith, 1360 NW 121st Street, Clive stated because of the grade of the property moving the building closer to SE 14th Street would be challenging. The pedestrian walkway from SE 14th is also a struggle for them because of the grade to the proposed building. By rotating the building as staff suggested, Little Cesar’s would maintain visibility from SE 14th but other tenants will not. The reasons for proposing the building further off SE 14th are visibility, grade of the property and use of the parking lot to help with the transition of the grade. They would be willing to review the removal of the North entrance to the site.
CHAIRPERSON OPENED THE PUBLIC HEARING

Tracy Lukasak, 3804 SE 15th Street stated she would have concerns of trash ending up in neighbor’s yards or even her own with the location of the dumpster. She also has concerns with storm water detention because of her street being at a dead end and the amount of water that accumulates already. She wants to confirm there will be no exit road coming out to SE 15th street. With no visual exposure from SE 14th. She is concerned with the possibility of undesirable activity happening behind the building.

Smith stated they have worked with the City Engineering staff to develop the best possible plan for storm water detention on site and should improve the condition downstream. Regarding potential crime, they will have a security system on the exterior and the tenant to the North will make sure their parking lot is well monitored.

Andy Ogden, 3801 SE 15th Street stated he also wanted to express concern about storm water and will there be any usage of the empty space on the rear of the property?

Caleb Smith stated the rear of this lot will forever stay open space unless the site is completely redeveloped. The storm water dentition basin is located there and is significantly landscaped to provide that buffer.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked Caleb Smith to explain the problem with orienting the building with the frontage road.

Caleb Smith stated if they pushed the building closer to the frontage road, it would be hard to maintain the visibility for all tenants. It would also create a problem from pedestrians trying to access the front of the building because of the grade. If they were to do that, they would ask for the rear of the building to face West and the front to face East.

Greg Jones asked if it would be possible to move the building further West if the commission would allow the rear to be developed as a frontage.

Caleb Smith stated that is possible but will be difficult with the grade and they would need relief on how close they could get to the frontage road.

Jason Van Essen stated in the staff report they also proposed to slide the building forward and provide on street parking.

Caleb Smith stated with the grade being at 8% every unit will require steps and would be difficult to meet ADA requirements.

Jason Van Essen asked if they would agree with angled parking in front to allow the building to align with property to the South.
Caleb Smith stated that could work but would move some parking to the rear.

Mike Ludwig gave examples of other 4 tenant buildings in the City that have entrances located on the front and rear.

Greg Jones stated without rotating the building to make this work, they could remove the South entrance where they are collecting all the grade and have the North entrance loop around the building.

COMMISSION ACTION:

Greg Wattier made a motion for approval of issuing Type 2 Design Alternatives and approval of the proposed Public Hearing Site Plan subject to the following:

1. The building shall be moved closer to SE 14th, to the satisfaction of the Planning Administrator
2. Provision of masonry or concrete siding for the bottom two (2) feet of the side and rear facades.
3. Provision of a pedestrian route from the building to the SE 14th Street sidewalk to the satisfaction of the Planning Administrator.
4. Removal of the unused drive approach to SE 14th Street with restoration of the curb line and turf where the approach is removed.
5. Revision of the site plan and building elevations to comply with all administrative review comments.

THE VOTE: 12-0

Item 2

Request from C. Green Contractor, Inc (owner) represented by Christopher Green (officer) for review and approval of a Site Plan “C Green Contractor Storage Addition“ requiring the following Type 2 Design Alternatives in accordance with Chapter 135 Sections 135-9.2.4.B and 135-9.3.1.B for property located at 2208 George Flagg Parkway, to allow construction of a 1,250-square foot warehouse addition to the existing 3,521-square foot Workshop/Warehouse Type building in an “EX” Mixed Use District.

(10-2020-7.112)

A) Primary entrance that does not face the primary street frontage,
B) Provision of the 20 feet of depth of the ground story of the building primary frontage as storage space and not the required office space.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new addition to the street-facing façade of an existing warehouse building. The proposed addition would consist of 1,185-square foot area of new storage space and a new primary entrance on the eastern façade. The subject site is located on south of George Flagg Parkway to the west of the intersection with Fleur Drive.

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: 37,560 square feet (0.862 acres).


4. Existing Land Use (site): Contractor warehouse.

5. Adjacent Land Use and Zoning:

   North – “P2” & “F”; Use includes Des Moines Water Works.
   South – “EX”; Uses are mixed-use.
   East – “EX”; Uses are mixed-use.
   West – “EX”; Uses are mixed-use.

6. General Neighborhood/Area Land Uses: The subject property is in a mixed-use area along the George Flagg Parkway corridor.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda on May 29, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 8, 2020 (10 days prior to the original public hearing) to the neighborhood association and 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 Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.
8. **Relevant Zoning History:** None.

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

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, 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. Building Primary Frontage: The applicant is proposing a building addition to the north side of the existing warehouse structure for use as a storage space. Section 135-2.9.3.C.15, the Workshop/Warehouse Building type, requires a minimum depth of 20 feet on the primary frontage on the ground story to be office space. Therefore, the proposed storage use, rather than an office use, along the street-facing building façade requires Type 2 Design Alternative approval.

   Staff does not support the requested Type 2 Design Alternative. Given the proposed addition would be new construction, it is reasonable to believe that a depth of 20 feet of office space could be accommodated on the street-facing façade of the new addition.

2. Primary Entrance on Primary Street Frontage: The applicant is proposing a building addition to the north side of the existing warehouse structure with a new primary entrance on the eastern façade. Section 135-2.9.3.D.18, the Workshop/Warehouse Building type, does not allow non-primary street frontage entrances. Therefore, the proposed primary entrance along the non-street-facing (eastern) building façade requires Type 2 Design Alternative approval.

   Staff does not support the requested Type 2 Design Alternative. Given the proposed addition would be new construction, it is reasonable to believe that a primary entrance could be accommodated on the street-facing façade of the new addition.

III. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternatives to waive the requirements of a primary entrance that does not face the primary street frontage and of 20 feet of depth of the ground story of the building primary frontage as office space.

SUMMARY OF DISCUSSION

Katherine Dostart presented staff report and recommendation.

Will Page asked if the building material will meet code requirements?

Katherine Dostart stated yes, they will be matching to existing material.
Greg Wattier stated he struggles with requiring the primary entrance on the North façade being when the building is located behind the storage yard fence.

Katherine Dostart stated they are trying to uphold the standards in the zoning ordinance so they are asking for the necessary design elements to achieve that.

Greg Wattier asked if they went through the building and site requirements with the applicant.

Katherine Dostart stated what they proposed has met the intent of the code except for these 2 elements.

Josh Palmer, 662 40th Street stated they are willing to provide a door and windows on the north side of the addition. The problem of making this an occupiable space is the moment they go over $51,000 of project cost it will trigger additional requirements in the zoning code, along with IBC requirements. They do plan to meet all requirements on the exterior, although there might not be someone on the inside all the time.

CHAIRPERSON OPENED THE PUBLIC HEARING

Nobody requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones stated since the applicant is ok with moving the door to the North, we should agree to that. They are proposing windows to make it appear as an office so he isn’t worried if it’s used as an office or not.

COMMISSION ACTION:

Greg Jones made a motion for approval of the requested Type 2 Design Alternative to allow the 20 feet of depth of the ground story of the building primary frontage as storage space and not the required office space subject to a primary building entrance and windows being provided on the north façade of the addition facing the street.

THE VOTE: 13-0

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Committee and Director’s Report

Mike Ludwig stated the governor’s proclamation allowing electronic meetings ends on June 25th. More information to come regarding the format of the July 2 meeting.

Meeting adjourned at 7:07pm