The July 2, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID: 948 8388 9558.


P&Z ABSENT: Emily Webb and Francis Boggus

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

Jacqueline Easley made a motion to approve the June 18, 2020 Plan and Zoning Commission meeting minutes. Motion carried 11-0-1 (Johnny Alcivar abstained as he began his term on the Commission as of July 2, 2020)

Jann Freed asked if any members of the public or the Commission wanted to speak regarding consent agenda Items #1, #2, #3 or #4. Attendees requested item #3 be removed from the consent portion of the agenda and moved to the public hearing portion of the agenda.

Jann Freed stated Item #7 can be moved to the consent agenda as the applicant agrees with staff recommendations.

Jann Freed asked if any members of the public or the Commission wanted to speak regarding Item #7. None requested to speak.

Dory Briles made a motion to move Item #7 to the consent agenda. Motion Carried 12-0

Greg Jones made a motion to approve Consent Agenda Items #1, #2, #4 and #7 per the recommendations in the staff reports. Motion Carried 12-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from the City Address Administrator for review and recommendation of a proposed honorary street name of “Riviera Way” for a segment of Corning Avenue between 6th Avenue and a terminus at the Des Moines River to the west of 7th Street. (11-2020-1.06)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The City’s Park and Recreation Department recently completed significant improvements and expansion of services at Riverview Park with the addition of a new amphitheater. A proposal to honorarily rename a
segment of Corning Avenue to Riviera Way has been promoted to honor the original amusement park and entertainment center located on the same ground. The subject segment to be honorarily renamed Riviera Way will provide access to Riverview Park.

2. **Size of Site:** Approximately 19,000 square feet.

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

4. **Existing Land Use (site):** The subject right-of-way segment contains a portion of Corning Avenue that terminates at the Des Moines River.

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

   - **North** – “P2”; Uses are undeveloped land, Polk County Senior Center and associated paved surface parking.
   - **South** – “I1”; Uses are warehouse, storage, office and retail uses.

6. **General Neighborhood/Area Land Uses:** The street is in an area that contains a mix of single-household residential, multiple-household residential, commercial, industrial, and public/open space uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park and Oak Park Neighborhoods (combined). All neighborhoods were notified of the July 2, 2020 Commission meeting by mailing of the Preliminary Agenda on June 12, 2020 and the Final Agenda on June 26, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 22, 2020 (10 days prior to the hearing) to the Highland Park and Oak Park Neighborhoods and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject right-of-way.

   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 and Highland Park Neighborhood notices were mailed to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

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

9. **PlanDSM Land Use Plan Designation:** Parks and Open Space, Business Park, and Low-Medium Density Residential.

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

1. **Utilities:** There are three identified streetlights in the right-of-way on the north side of Corning Avenue and one identified streetlight in the right-of-way on the west side of 6th Avenue. There are existing sanitary sewer and storm conduits within the specified right-of-way. There is an existing 6-inch water main within the specified right-of-way. All existing utilities will remain in the right-of-way.

2. **Traffic & Transportation:** The subject right-of-way segment is located to the west of 6th Avenue and terminates at the Des Moines River. The subject segment to be honorarily renamed Riviera Way will provide access to the Riverview Park. The proposed honorary renaming would not impact pedestrian or vehicular access to the properties accessed off the subject segment.

III. STAFF RECOMMENDATION

Staff recommends approval of the request to honorarily rename the designated segment of Corning Avenue to Riviera Way.

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:

Greg Jones made a motion for approval of the request to honorarily rename the designated segment of Corning Avenue to Riviera Way.

THE VOTE: 12-0

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Item 2

City initiated request for vacation of the east/west alley segment between Vale Street and East Railroad Avenue from Southeast 7th Street to Southeast 8th Street in the vicinity of property at 901 Southeast 7th Street, 709 and 714 Vale Street.

(11-2020-1.07)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject alley is located within the city block that is bound by Vale Street to the north, Southeast 8th Street to the east, East Railroad Avenue to the south and Southeast 7th Street to the west. It divides this block into north and south halves. The northern half was rezoned from “N3c” District to a Conditional
“NX2” District by the City Council on June 8, 2020 to allow it to be redeveloped with rowhouses. The Plan and Zoning Commission heard that request on April 16, 2020.

The City Council’s action to approve the rezoning also initiated the vacation of the alley to allow all adjoining property owners to buy the half of the alley that abuts their property. This means that the property owner of the northern half of the block would have the opportunity to purchase the north half of the alley and that the two property owners that control the south half of the block would have the opportunity to purchase the portions of the south half of the alley that abut their properties. If a property owner elects to not purchase their half then it would be made available to the property owner on the other side of the alley for purchase pursuant to City policy.

2. **Size of Site**: 18 feet by 318 feet (5,724 square feet).

3. **Existing Zoning (site)**: “NX2” Neighborhood Mix District and “N3c” Neighborhood District.

4. **Existing Land Use (site)**: Undeveloped alley right-of-way.

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

   - **North** – “NX2”, Use is land intended to be cleared for a proposed rowhouse development.
   - **South** – “N3c”; Uses are one household dwelling units.

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 public hearing by mailing of the Preliminary Agenda on June 12, 2020 and by mailing of the Final Agenda on June 26, 2020. Additionally, separate notification of the hearing for this specific item was mailed on June 12, 2020 (10 days prior to the 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.

   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.

8. **Relevant Zoning History**: On June 8, 2020, by Ordinance No. 15,900, the City Council rezoned the adjoining property to the north from “N3c” Neighborhood District to “NX2” Neighborhood Mix District.
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 vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: Staff is not aware of any existing utilities located within the subject alley right-of-way. Easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the purchaser’s expense.

2. Traffic/Access: The alley is not developed or needed for circulation in the area. The property owner to the north has the ability to develop a private drive in place of the alley to serve any future rowhouse buildings.

III. STAFF RECOMMENDATION

Staff recommends approval of the City initiated vacation subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the purchaser’s expense.

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:

Greg Jones made a motion for approval of the City initiated vacation subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the purchaser’s expense.

THE VOTE: 12-0

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Item 4

Request from Spot Free Car Wash, LLC (owner) represented by Allen Hansen (officer) for the following for property located at 3104 Indianola Avenue.

A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
B) Amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use map designation from Low Density Residential to Community Mixed Use. (21-2020-4.09)

C) Rezone property from “N3a” Neighborhood District to “MX3” Mixed Use District, to allow the existing car wash defined as a Vehicle Sales and Service, Vehicle Maintenance/Repair Minor to continue as a use permitted by right. (ZON2020-00061)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to rezone the property so the existing Vehicle Sales and Service, Vehicle Maintenance Repair, Minor (car wash) would be able to continue operation as a permitted use rather than a legal nonconforming use.

2. Size of Site: 1.26 acres.

3. Existing Zoning (site): “N3a” Neighborhood District.

4. Existing Land Use (site): Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor (car wash). This includes self-service and automatic wash bays with dryers as well as vacuums.

5. Adjacent Land Use and Zoning:
   
   North – “P2”, Use is Indianola Heights Evangelical Church Assembly, Place of Worship.

   South - “P2” and “N3a”, Uses are One Household Living houses, Des Moines Water Works standpipe site and Wireless Telecommunication towers.

   East – “N3a”, Uses are One Household Living houses.

   West – “N3a”, Uses are One Household Living houses.

6. General Neighborhood/Area Land Uses: The subject property is on the Indianola Avenue corridor just west and north of the Neighborhood Node at East Park Avenue and Southeast 14th Street/U.S. Highway 69. Low Density Residential neighborhood areas are generally to the north, west and south.

7. Applicable Recognized Neighborhood(s): The subject property is in the Indianola Hills Neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on June 12, 2020. All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Indianola Hills mailings
were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315. Additionally, separate notifications of the hearing for this specific item were mailed on June 12, 2020 (20 days prior to the hearing) and June 22, 2020 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on June 26, 2020.

During the Governor’s emergency declaration due to the COVID-19 pandemic, the applicant is responsible for reaching out to the surrounding property owner within 250 feet through a written communication soliciting questions and input and providing responses. The applicant shall provide a report on the outcomes of this process prior to the Plan and Zoning Commission meeting, and provide a summary at the hearing.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The Low Density Residential future land use designation of the property on the PlanDSM future land use map prompted the property to be rezoned to the “N3a” Neighborhood District with the citywide rezoning effective last December 2019. This anticipated future redevelopment for One Household dwelling units. To rezone to the “MX3” Mixed Use District to allow for the car wash use to continue as a permitted use, the future land use designation would also need to be amended to a Community Mixed Use Designation which provides for 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 customer.

2. Permitted and Conditional Uses: The applicant has kept the car washing use in continuous operation since the citywide zoning map update, and may continue the non-conforming use legally. However, destruction beyond 50% of the value would not allow it to continue use. The site may also not be expanded or altered significantly over time to keep it maintained or upgrade the facilities. Therefore, the applicant is seeking the rezoning to allow this flexibility.
Staff believes that the site fits within the intent of Community Mixed Use being developed for commercial use on the Indianola Avenue corridor. However, because of the concern for the immediately adjacent low density residential areas, staff believes that many of the uses in the “MX3” District would not be appropriate due to their impacts. Therefore, Staff would recommend that any rezoning be subject to allowing a Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor use limited to personal vehicle washing only with either self-service or automatic equipment. In addition, Staff would further recommend that the only other uses permitted by right or by Conditional Use be those uses in common with and as limited by the “RX1” Mixed Use District.

III. STAFF RECOMMENDATION

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

Part B) Staff recommends approval of the requested amendment to the PlanDSM Creating Our Tomorrow Comprehensive Plan future land use designation from “Low Density Residential” to “Community Mixed Use”.

Part C) Staff recommends approval of the requested rezoning of the property from “N3a” Neighborhood District to “MX3” Mixed Use District, subject to the following:

1. Allowing a Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor use limited to personal vehicle washing only with either self-service or automatic equipment.

2. All other uses permitted by right or by Conditional Use shall only be those uses allowed in common with and as limited in the “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:

Greg Jones made a motion for approval of Part A) the Commission find the requested rezoning to be **not** in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Low Density Residential”, Part B) **APPROVAL** of the requested amendment to the PlanDSM Creating Our Tomorrow Comprehensive Plan future land use designation from “Low Density Residential” to “Community Mixed Use” and Part C) **APPROVAL** of the requested rezoning of the property from “N3a” Neighborhood District to “MX3” Mixed Use District, subject to the following:
1. Allowing a Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor use limited to personal vehicle washing only with either self-service or automatic equipment.

2. All other uses permitted by right or by Conditional Use shall only be those uses allowed in common with and as limited in the “RX1” Mixed Use District.

THE VOTE: 12-0

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Item 7

Request from Grasso Properties One, LLC (purchaser) represented by Steve Grasso (officer) for the following for property located at 3206 University Avenue. The subject property is owned by Drake University.

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

B) Amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use map designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use. (21-2020-4.10)

C) Rezone property from “P2” Public, Civic and Institutional District to “MX3” Mixed Use District, to allow the basement of the existing Drake University building used for Office, Business or Professional to be remodeled for Self-Service Storage use. (ZON2020-00062)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is purchasing the subject property from Drake University with the intent of using the upper levels of the building for office use and the basement for a self-service storage use. The proposed self-service storage use is not allowed in the “P2” District. It is a Conditional Use in the “MX3” District. Should the proposed rezoning be approved, the applicant would be required to obtain Conditional Use approval from the City’s Zoning Board of Adjustment before any of the building or site could be used for a self-service storage use. The proposed change of use would also require a site plan and building elevations to be submitted for review and approval pursuant to the Planning and Design Ordinance.

2. Size of Site: 58,254 square feet or 1.337 acres.

4. **Existing Land Use (site):** The site contains a two-story, 17,654-square foot office building.

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

   - **North** – “P2”; Use is a church.
   - **South** – “N5”; Uses are one household dwelling units.
   - **East** – “RX1”; Use is an office building.
   - **West** – “P2”; Use is an office building occupied by the City’s Park and Recreation Department.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the south side of University Avenue just west of the 32nd Street intersection. The area contains a mix of commercial, institutional and residential uses. It is located at the southwest perimeter of the Drake University campus.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on June 12, 2020 and by mailing of the Final Agenda on June 26, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 12, 2020 (20 days prior to the public hearing) and on June 22, 2020 (10 days prior to the public hearing) to the Drake 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 Drake Neighborhood Association notices were mailed to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential and Low-Medium 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 northern 145 feet of the subject property is designated as “Low-Medium Density Residential” on the Future Land Use Map. The remaining portion of the property is designated as “Low-Density Residential. 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.

   **Low Density Residential**: Areas developed with primarily single family and two family residential units with up to 6 dwelling.

The applicant is proposing to rezone the property from “P2” District to “MX3” District. The Zoning Ordinance states that “P2 is intended for civic and institutional facilities, such as religious assembly places, cultural or art centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities.” Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building, and Principal-Use Parking Structure.

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

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

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 “MX3” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designations of “Low Density Residential” and “Low-Medium Density Residential.”

Part B) Staff recommends amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from “Low Density Residential” and “Low-Medium Residential” to “Community Mixed Use.”

Part C) Staff recommends approval of rezoning the subject property from “P2” Public, Civic and Institutional District to “MX3” Mixed Use District subject to the following conditions:

1. The site shall be brought into conformance with current landscaping standards with any site plan.

2. Permitted uses shall be limited to self-service storage, and uses allowed in common by the “MX3” and the “RX1” Districts.

SUMMARY OF DISCUSSION

Jann Freed stated Item #7 can be moved to the consent agenda as the applicant agrees with staff recommendations.

Jann Freed asked if any members of the public or the Commission had any concerns about moving Item #7 to the consent agenda. None requested to speak.

Dory Briles made a motion to move Item #7 to the consent agenda.
Motion Carried 12-0

COMMISSION ACTION:

Greg Jones made a motion for approval of Part A) the proposed rezoning to “MX3” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designations of “Low Density Residential” and “Low-Medium Density Residential.”, Part B) amending the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation from “Low Density Residential” and “Low-Medium Residential” to “Community Mixed Use” and Part C) APPROVAL of rezoning the subject property from “P2” Public, Civic and Institutional District to “MX3” Mixed Use District subject to the following conditions:

1. The site shall be brought into conformance with current landscaping standards with any site plan.
2. Permitted uses shall be limited to self-service storage, and uses allowed in common by the “MX3” and the “RX1” Districts.

THE VOTE: 12-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

(Lisa Howard left at 6:45)

Item 3

Request from 3 Sons Enterprises, LLC (owner) d/b/a Sunset Memorial Gardens represented by Blair Overton (officer) for the following for property located at 7601 Fleur Drive.

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

B) Review and approval of a Large-Scale Development Plan for a 33.92-acre non-City owned cemetery including development of a new memorial chapel for a place of worship.

C) Rezone property from “P-1” Public, Civic and Institutional District to “P-2” Public, Civic and Institutional District, to allow development of a place of worship use within a Civic Building Type and allow the future right to expand an existing non-City owned cemetery use through Conditional Use consideration.

(ZON2020-00060)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is seeking to redevelop the existing memorial chapel on site for a new chapel. The Zoning Ordinance differentiates between City-Owned and Non-City-Owned Cemeteries. The latter is not a use that can be considered in the existing “P1” District, nor is the proposed new chapel, which would be defined as Assembly, Place of Worship by the Zoning Ordinance. With the proposed rezoning, the chapel development could be reviewed under a Site Plan administratively. The proposed internments or columbaria within the new chapel would require approval of a Conditional Use for a Non-City-Owned Cemetery by the Zoning Board of Adjustment. The property, without alteration or expansion, could continue as a legal nonconforming use under the existing “P1” District zoning.
2. **Size of Site**: Approximately 33.92 acres.

3. **Existing Zoning (site)**: “P1” Public, Civic and Institutional District.

4. **Existing Land Use (site)**: Non-City-Owned Cemetery with existing Assembly, Place of Worship.

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

   - **North** – “P1”, Use is vacant, open space land with a utility Workshop/Warehouse Building.
   - **South** - “EX”, Uses is vacant land cultivated for agriculture.
   - **East** – “N3a” and “EX”, Uses are One Household Living Houses and vacant land.
   - **West** – Airport Crossroads “PUD”, Uses are office buildings and vacant land for business park development.

6. **General Neighborhood/Area Land Uses**: The subject property is on the Fleur Drive corridor just north of Iowa Highway 5 between business park development to the west and a low density residential development to the east.

7. **Applicable Recognized Neighborhood(s)**: The subject property is not located in or within 250 feet of a recognized neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on June 12, 2020. All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. Additionally, separate notifications of the hearing for this specific item were mailed on June 12, 2020 (20 days prior to the hearing) and June 22, 2020 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda was mailed to recognized neighborhoods on June 26, 2020.

   During the Governors emergency declaration due to COVID-19 pandemic, the applicant is responsible for reaching out to the surrounding property owner within 250 through a written communication soliciting questions and input and providing responses. The applicant shall provide a report on the outcomes of this process prior to the Plan and Zoning Commission meeting, and provide a summary at the hearing.


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

II. ADDITIONAL APPLICABLE INFORMATION

1. Conditional Use Permits: In addition to the proposal to construct a new Assembly, Place of Worship (memorial chapel), any future expansion of the Non-City-Owned Cemetery such as setting aside additional land for burial interments or scattering sites, or for internment of remains within columbaria in other new structures such as the chapel or mausoleum, would require a Conditional Use. This use would require review and approval by the Zoning Board of Adjustment after a determination of compliance with supplemental use regulations in Chapter 134 Section 134-3.4.3.B.

These regulations are as follows:

Cemeteries that are not owned by the city are subject to the following supplemental use regulations:

1. Surveys and records must be maintained of each cemetery, including plots of every interment and scattering area and the location of benches and columbaria. Records must indicate the GPS coordinates, name, death, burial and birth dates, last address, and name and address of contact person,

2. A monument or marker of the name of all persons whose remains are scattered must be placed at the scattering site.

3. Written authorization must be obtained and kept for each person whose remains are scattered, including cremation benches and columbaria, to allow removal and relocation of the scattered remains.

4. The property must be maintained free of tail weeds and debris.

5. Monuments and other markers or structures, fences, walk ways, paths, and roadways must be maintained in good and safe condition and appearance,

6. The perimeter of the cemetery must be fenced.

7. A portion of every lot sale, burial service fee, or scattering fee must be kept in a fund for maintenance of the cemetery grounds,

8. The scattering of remains is allowed only in cemeteries operating in compliance with the Iowa Cemetery Act. Cremated remains may only be scattered in a designated area with dimensions of no more than 20 feet by 20 feet.

2. Permit and Development Center Comments: Any future redevelopment of the property for a chapel would be subject to compliance with all applicable Building
Codes and compliance with Chapter 135 Planning and Design Ordinance requirement for Site Plan and Civic Building Type, along with issuance of a building permit by the Permit and Development Center.

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

4. **Large Scale Development Plan**: The recently updated Chapter 134 and 135 require rezoning of tracts larger than 5 acres in area be considered under provisions in Chapter 135 Article 5 for Large-Scale Development. There are not specific requirements of these provisions applicable to Public, Civic and Institutional zoning districts. The proposed plan is going to exceed the open space provisions. There are not any proposed extensions of the public street network requiring consideration of the Block and Access provisions, the Street provisions, or the Primary Street Designation provisions of the Large-Scale Development Plan requirements in Chapter 135 Article 5.

In the Commission packet is a plan attachment comprising the submittal for this requirement. The Plan submitted essentially provides a master plan for the cemetery development including showing existing improvements and the proposed chapel project. There are not any significant plans proposed for changing access points to the public street network or adjoining properties. Additionally, the Plan is only contemplating a single zoning amendment for the property to “P2” District as the overall property is intended for a single purpose use of a Non-City-Owned Cemetery along with associated Assembly, Place of Worship.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Public/Semi-Public”.

Part B) Staff recommends approval of the submitted Large-Scale Development Plan subject to amendment for future significant site changes not shown.

Part C) Staff recommends approval of the requested rezoning of the property from “P-1” Public, Civic and Institutional District to “P-2” Public, Civic and Institutional District subject to compliance with all supplemental use regulations in Chapter 134 Section 134-3.4.3.B for any expansion of a Non-City-Owned Cemetery also subject to a Conditional Use approval by the Zoning Board of Adjustment.

**SUMMARY OF DISCUSSION**

**Erik Lundy** presented staff report and recommendation.

**David Bentz**, Bishop Engineering 3501 104th St., Urbandale representing the applicant stated there is currently a temporary chapel that has been in use for some time now.
They will not be changing anything from what is already going on, just trying to make it into a nicer chapel for the cemetery.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Mike Barnes, owns property on the west side of Fleur Drive across from the cemetery. They want to develop a convenience store on their property and want to make sure that a chapel on the cemetery won’t prevent a future convenience store from selling beer, wine and liquor. They also want to develop a hotel, which would include a restaurant that would sell beer, wine and liquor. He was told the convenience store would be far enough away that it shouldn’t cause any issue but the hotel might be too close.

Erik Larsen, stated he isn’t against remodeling the chapel but more concerned what the 33 acers could potentially be rezoned to in the future if the chapel was no longer in use.

Mike Ludwig stated the property owner has the right to request a rezoning at any point in time but would go through the same process as we are tonight. Surrounding neighbors within 250 feet would be notified, the Plan and Zoning Commission would review the request and make a recommendation, and the City Council would hold a public hearing and make the final decision regarding any rezoning request.

David Bentz stated he doesn’t know all the requirements for liquor license but they are currently doing everything they are proposing to do with the chapel. The owners of this property mainly focus on cemetery work and he doesn’t believe they will rezone to anything else in the future.

Mike Ludwig stated regarding the liquor license requirements, the separation distances are in the ordinance, which are subject to review and potential variance from the Zoning Board of Adjustment. If a restaurant is located within a hotel, the restaurant can have beer, wine or liquor if more than 50% of sales are derived from food. If it was a standalone bar they might need a conditional use and a variance to a separation requirement.

**CHAIRPERSON CLOSED THE PUBLIC**

Will Page asked if there was only 1 response card received?

Erik Lundy stated staff only received 1 card in favor but have 2 present tonight that are expressing concerns.

**COMMISSION ACTION:**

Greg Jones made a motion for approval of Part A) the Commission find the requested rezoning in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Public/Semi-Public”, Part B) **APPROVAL** of the submitted Large-Scale Development Plan subject to amendment
for future significant site changes not shown and Part C) **APPROVAL** of the requested rezoning of the property from “P-1” Public, Civic and Institutional District to “P-2” Public, Civic and Institutional District subject to compliance with all supplemental use regulations in Chapter 134 Section 134-3.4.3.B for any expansion of a Non-City-Owned Cemetery also subject to a Conditional Use approval by the Zoning Board of Adjustment.

**THE VOTE:**  11-0

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**Item 5**

Request from Greater Des Moines Habitat for Humanity, Inc. (owner) represented by Tami Kreykes (officer) for appeal of the administrative denial of a Type 1 Design Alternative in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 1715 Clark Street, to allow a One Household House Type D dwelling in an “N5” Neighborhood District to be constructed on the property without the required garage per Section 135-2.16.3.E.5.

(BLD2020-00726)

**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:** 44 feet by 114 feet (5,016 square feet).

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

4. **Existing Land Use (site):** The property is currently vacant.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N5”; Uses are one-household dwellings.
   - **South** – “N5”; Use is King Elementary School.
   - **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 King Irving and Mondamin Presidential Neighborhoods. All neighborhoods were notified of the July 2, 2020 Commission meeting by mailing of the Preliminary Agenda on June 12, 2020 and the Final Agenda on June 26, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 12, 2020 (20 days) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

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 King Irving Neighborhood mailings were sent to Ramona Bates, 1321 Norton Street, Des Moines, IA 50314. The Mondamin Presidential Neighborhood mailings were sent to Rhonda L. Cason, 1819 Jefferson Avenue, Des Moines, IA 50314.

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

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

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:
  - 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. **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 29 parcels located within 250 feet of the subject property. Staff found that 15 (51.7%) 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 0.5-story 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. A 9% reduction in required minimum story height of 9 feet has already been approved by staff as a Type 1 design alternative.
Staff notes that the applicant is proposing to install a 10-foot by 12-foot shed in lieu of the required 288-square foot garage. Staff additionally notes that a 288-square foot garage could be satisfied by provision of a 12-foot by 24-foot garage in approximately the same location of the proposed shed.

Staff believes that a minimum 288 square feet garage is necessary on this property to provide essential storage for such items as vehicles, bicycles, lawn care equipment and refuse and recycling bins. 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 appeal of the administrative denial of a Type 1 Design Alternative to allow construction of a new one-household dwelling unit on the subject property without the required garage.

SUMMARY OF DISCUSSION

Katherine Dostart presented staff report and recommendation.

Jacquie Easley asked if the neighborhood association was notified of this project?

Katherine Dostart stated yes, agendas are sent to each neighborhood association and notices are sent to the impacted associations.

Johnny Alcivar asked if the 15 lots without garages included vacant lots?

Katherine Dostart stated that is correct.

Johnny Alcivar stated without the vacant lots, it would be 12 garages that exist.

Lance Henning, 2200 east Euclid, Executive Director of Greater Des Moines Habitat for Humanity presented power point presentation the commission.

Will Page asked if they have had any problems with the houses without garages that were built in the Birdland area?

Lance Henning stated they have not and believe the families have utilized the space well.

Jann Freed asked for the difference in cost from building a shed rather than a garage?

Lance Henning stated it varies from the amount of concrete used but generally $15,000.
Greg Wattier asked in what circumstances would Habitat include a garage with a house?

Lance Henning stated only when they have been required.

Greg Wattier asked if that was based on price point or the market?

Lance Henning stated from their standpoint, they are building quality homes that bring value to the neighborhood. They are providing space for families to store their belongings, it is important that we have something to offer the families that are making less than 60% of the area median income.

Greg Wattier asked if they have found basements are more important than garages?

Lance Henning states yes and with the variation of lot sizes, they don’t gain a lot of savings trying to build a garage.

Carolyn Jenison stated from her perspective living in the neighborhood, Habitat has done a good job making their projects fit into the neighborhood.

Jacquie Easley stated the times that we are in today with Covid19, it is significant to promote homeownership in the community.

CHAIRPERSON OPENED THE PUBLIC HEARING

CHAIRPERSON CLOSED THE PUBLIC

Johnny Alcivar stated regarding the 50%, within the staff report it does state developed lots. If you were to remove the vacant lots, it would fall below 50%.

Mike Ludwig stated a developed lot within the code would be a buildable lot with utilities present.

Greg Jones stated he is going to defend the code, he believes a garage adds value and constructing it wouldn’t add that much additional cost. If a shed is built, the possibility of a garage being built in the future goes away.

Rocky Sposato made a motion for denial of the requested appeal of the administrative denial of a Type 1 Design Alternative to allow construction of a new one-household dwelling unit on the subject property without the required garage.

Motion Failed 3-8-0 (Johnny Alcivar, Dory Briles, Jann Freed, Jacquie Easley, Carolyn Jension, Greg Wattier, Abby Chungath, Will Page vote in opposition)

COMMISSION ACTION:
Jacquie Easley made a motion to wave the requested appeal of the administrative denial of a Type 1 Design Alternative to allow construction of a new one-household dwelling unit on the subject property without the required garage.

THE VOTE:  7-4-0 (Rocky Sposato, Greg Jones, Steve Wallace and Jann Freed vote in opposition)

Item 6

Request from Inder Singh (owner) for review and approval of a Site Plan “East Euclid Avenue Liquor Store,” requiring the following Type 2 Design Alternatives and administratively denied Type 1 Design Alternatives in accordance with Chapter 135 for property located at 821 East Euclid, to allow expansion of a Storefront building within an “MX3” Mixed Use District adding 2,117 square feet of area within four (4) proposed additions to the building for a total of 3,674 square feet. (10-2020-7.104)

A) Placement of the building outside of the required primary frontage build-to-zone of 0-5’.

B) Removal and replacement of the existing surface parking within the front yard area.

C) Provision of 1 primary entrance where 2 are required.

D) Provision of an entryway that is not recessed between 3’ and 8’ from the portion of the primary frontage façade closest to the street.

E) Retention of a driveway access from the primary street of East Euclid Avenue (denied Type 1).

F) Waiver of the requirement that major facade materials cover at least 60% of each street facing facade per Table 135-4.1-1, and waiver of the minor façade materials per Table 135-4.1-2. (denied Type 1)

G) Waiver of the requirement that the primary frontage façade be 65% windows, measured between 2 feet and 8 feet (denied Type 1).

H) Provision of a shrub hedge in combination with a fence on the neighboring residential property. (denied Type 1)

STAFF REPORT TO THE PLANNING COMMISSION
I. GENERAL INFORMATION

1. Purpose of Request: The proposed site plan would allow conversion of a vacant gas station/convenience store to a liquor store. Site improvements include a reconstructed parking lot and building additions that would expand the building from 1,537 square feet to 3,674 square feet.

2. Size of Site: 140 feet by 120 feet (16,800 square feet).


4. Existing Land Use (site): The subject property is located at the southwest corner of East Euclid Avenue and Wright Street. The site contains a 1,537-square foot commercial structure most recently occupied as a Valero-brand convenience store, and a surface parking lot.

5. Adjacent Land Use and Zoning:
   - North – “MX3”, Uses include East Euclid Avenue and a gas station/convenience store (Git-n-Go).
   - South – “N5”, Use is a one-household dwelling.
   - East – “MX3”, Uses include Wright Street and an office/warehouse use (Exhibits & Display, Inc.).
   - West – “N5”, Use is a one-household dwelling.

6. General Neighborhood/Area Land Uses: The subject property is in an industrial area located along the north side of East Madison Avenue to the east of East 14th Street.

7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood. All neighborhoods were notified of the July 2, 2020 Commission meeting by mailing of the Preliminary Agenda on June 12, 2020 and the Final Agenda on June 26, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 22, 2020 (10 days) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

   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 Highland Park Neighborhood mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50316.

8. Relevant Zoning History: 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. At that time, the subject property was designated as “I1” Industrial
On May 27, 2020, by Docket ZON2020-00048, the Zoning Board of Adjustment granted an amendment to a Conditional Use for alcohol sales (originally granted on September 25, 2019, by Docket ZON2019-00155), to allow multiple building additions that would increase the size of the liquor store from 1,537 square feet to 3,674 square feet. The amended Conditional Use contains the following conditions of approval:

1. Any renovation or construction on the site shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.

2. Any liquor store shall be limited to a 3,674-square foot building, where no more than 2,000 square feet of floor space (or no more than 54.4% of floor space if the building is less than 3,674 square feet) is dedicated to alcohol sales, and where the building has been constructed in compliance with a Site Plan that satisfies the provisions of City Code Chapter 135, inclusive of any Type 2 Design Alternatives granted by the City’s Plan & Zoning Commission.

3. Any sale of alcoholic liquor, wine, and/or beer shall be in accordance with the necessary license and/or permits obtained through the Office of the City Clerk as approved by the City Council.

4. Any sale of alcoholic liquor for off premises consumption shall either: i) display alcoholic liquor only in a locked case or behind a counter accessible only to employees; ii) employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or iii) have more than one employee on duty at all times the business is open to the public.

5. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

6. The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises. The City of Des Moines Police shall be authorized to enforce no trespassing during non-business hours.

7. The business shall not dispense alcoholic beverages from a drive-through window.

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

9. Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

10. Any use of the site shall be in accordance with a Site Plan as approved by the City’s Permit and Development Center that complies with all Site Plan requirements, including those pertaining to landscaping, screening, and pavement setbacks.

11. If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use or the requirements contained in
City Code Section 134-3.8.1, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.

12. The liquor store shall only operate between the hours of 8:00 AM and 11:00 PM as indicated by the appellant.

13. The building shall be renovated in general conformance with the drawing presented to the Board during the public hearing. However, more restrictive City requirements shall have precedence.

14. There shall be no more than one (1) sign, which must be unlit and not larger than 2 feet by 3 feet in size, identifying alcohol within any window that is visible from outside of the building.

15. There shall be no public access to outdoor electrical outlets.

16. The City of Des Moines Police shall be authorized to enforce loitering and/or trespassing on the property.

9. **PlanDSM Future Land Use Plan Designation:** Community Commercial.

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

A. Type 2 Design Alternative request for placement of the building outside of the required primary frontage build-to-zone of 0-5': Section 135-2.5.3.A of the Planning and Design Ordinance applicable to Storefront buildings within the “MX3” District requires building to be within 0’ to 5’ feet of the primary frontage building line. The proposed Site Plan allow building additions to a building that is setback 60 feet from the front property line along East Euclid Avenue.

B. Type 2 Design Alternative request for surface parking and loading within the front and street side yards where not allowed: Section 135-2.5.3.A of the Planning and Design Ordinance applicable to Storefront buildings within the “MX3” District allows for surface parking and loading to occur within rear and interior side yards only. The proposed Site Plan includes an off-street parking lot located within the front yard areas along both East Euclid Avenue and Wright Street.

C. Type 2 Design Alternative for provision of 1 primary entrance where 2 are required: Section 135-2.5.3.D of the Planning and Design Ordinance applicable to Storefront buildings in “MX3” Districts requires that 1 primary entrance be provided for each 45 feet of primary street frontage. The proposed building addition would cause the building to have 126 feet of primary street frontage while providing only 1 entrance instead of 2 entrances.

D. Type 2 Design Alternative for provision of an entryway that is not recessed between 3’ and 8’ from the portion of the primary frontage façade closest to the street: Section 135-2.5.3.D of the Planning and Design Ordinance applicable to Storefront buildings in “MX3” Districts requires that primary entrances be
recessed. The proposed entrance is flush with the front of the building, which is setback 60 feet from the front property line.

E. Type 2 Design Alternative (administratively denied Type 1 Design Alternative) for retention of a driveway access from the primary street of East Euclid Avenue: Section 135-2.5.3.A of the Planning and Design Ordinance applicable Storefront buildings to “MX3” District requires driveway access to come from a not primary street. The proposed Site Plan includes a driveway from East Euclid Avenue, as well as an allowed driveway from Wright Street.

F. Type 2 Design Alternative (administratively denied Type 1 Design Alternative) of the requirement that major facade materials cover at least 60% of each street facing facade per Table 135-4.1-1, and waiver of the minor facade materials per Table 135-4.1-2: Section 135-4.2.2 of the Planning and Design Ordinance requires a minimum of 60% of each street-facing and primary frontage facade, not including window and door areas, shall be faced with a single material. The submitted elevations indicate that the proposed building would be sided with a mix of thin brick veneer, composite panel siding, and metal decking, which would have the appearance of a parapet. None of these materials are considered to be allowed major facade materials. Therefore, the Site Plan effectively proposed to side the building 100% with allowed minor facade materials. Staff estimates that the metal decking material would comprise approximately 50% of both the north primary frontage facade and the east non-primary frontage facade.

G. Type 2 Design Alternative (administratively denied Type 1 Design Alternative) for waiver of the requirement that the primary frontage facade be 65% windows, measured between 2 feet and 8 feet: Section 135-2.5.3.D of the Planning and Design Ordinance requires that 65% of the primary facade, measured between 2 feet and 8 feet above grade, be sided with windows or doors. The submitted elevations indicate the proposed building would have approximately 50% of the area be windows and doors.

H. Type 2 Design Alternative (administratively denied Type 1 Design Alternative) for allowance of a shrub hedge in combination with a fence on the neighboring residential property: Section 135-7.8.4 of the Planning and Design Ordinance requires a “heavy buffer” consisting of a 6-foot tall fence and 2 shade trees and 6 ornamental or understory trees per 100 lineal feet for any “MX3” District lot abutting an “N” District. The Site Plan proposes a row of shrubs along the west side yard adjoining an “N” District and indicates that the existing solid fence on the adjoining property.

III. ADDITIONAL INFORMATION

A. Type 1 Design Alternatives Approved Administratively: In addition to the Type 2 Design Alternatives considered with this request, Staff has already administratively approved Type 1 Design Alternatives to allow the following:
1. Provision of a Streetscape for a storefront building consisting of a 5-foot wide sidewalk and planted right-of-way with street trees rather a Class A sidewalk that is required for a Storefront Building in an “MX3” District.

2. Provision of 10 parking spaces in a row without an intervening landscaping island, where a landscape island would be otherwise required within any row of parking that contains more than 8 spaces.

B. Staff Rationale: Staff recommends approval of the proposed Type 2 Design Alternatives listed in Sections A, B, C, and D. Granting these design alternatives would not have a substantial or undue adverse effect upon adjacent property or be detrimental to the character of the surrounding area or to the public health, safety and general welfare. Given the placement and configuration of the existing building, it is unreasonable to require the building or entrance to be any closer to the primary street frontage and necessary for the parking lot to be in front of the building.

Staff recommends denial of the proposed Type 2 Design Alternatives listed in Sections E, F, G, and H. Removing the driveway along East Euclid Avenue would enhance pedestrian safety along East Euclid Avenue and would allow for additional street trees to be provided. Also, to promote the long-term durability of the building, Staff believes that it is necessary to require the building to comply with façade material requirements. 60% of the building should be sided with an allowed major material and at least 65% of the area of the primary frontage between 2 feet and 8 feet above grade should be windows. Furthermore, to protect the residential use immediately to the west, Staff believes that the required heavy buffer, including a 6-foot tall solid fence, must be provided along west side of the parking lot adjoining an “N” District.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed Type 2 Design Alternatives listed in Sections A, B, C, and D.

Staff recommends denial of the proposed Type 2 Design Alternatives listed in Sections E, F, G, and H.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Greg Wattier asked if this use is allowed by-right?

Erik Lundy stated the use was not allowed by-right. It was granted as a conditional use by the Zoning Board of Adjustment.

Will Page asked if the City has done a noise evaluation study for this site?
Erik Lundy stated they will have to meet the noise ordinance of the City and are required to screen any rooftop mechanical equipment.

Johnny Alcivar asked if a lighting plan is required as part of the development?

Erik Lundy stated they are required to meet the requirements of cutoff lighting and light spill onto adjoining properties.

David Bentz, Representing Bishop Engineering stated they are asking for an additional access be granted off Euclid to create better circulation throughout the site.

Mark Hadaway stated they have made adjustments to meet the requirement that major facade materials cover at least 60% of each street facing façade and the requirement that the primary frontage façade be 65% windows. He would like clarification how they would meet 60% of major material and 65% windows.

Erik Lundy stated the calculation is exclusive of the window and door openings.

Mark Hadaway asked if they would include the parapet roof, along with the siding and brick in their calculations? They have no problem meeting the requirements, it’s just a matter of the percentage they need to show within the documentation.

Greg Wattier asked if they intend to apply with condition H?

David Bentz stated his understanding is they plan to do the landscaping as the existing fence is adequate. They wouldn’t be opposed to adding an additional fence but they would be placed right next to each other.

Mark Hadaway stated there is a chain link fence along the South lot line and a wooden fence along the West lot line. The wood fence would be at least 5 feet in height and the chain link fence would be no more than 3 ½ - 4 feet in height.

Will Page asked if the client owns the chain link fence.

Mark Hadaway stated he would assume they do not own the chain link fence along the South lot line as it divides a residential property. He is not sure if they own the wooden fence along the West lot line.

David Bentz stated he doesn’t believe they own the wood fence as it appears to be a privacy fence.

Will Page stated there is also a chain link fence on the South West side of the property, which is in very poor condition.

Johnny Alcivar asked if the parapet wall will entirely screen the rooftop mechanicals?

Mark Hadaway stated there are no rooftop units. The coolers will be located on the ground and screened with shrubbery, along with the HVAC.
CHAIRPERSON OPENED THE PUBLIC HEARING

William Lowe, 3515 E. 8th Street stated the concern he has is the existing chain link fence will not provide adequate buffering from the subject property.

Mark Hadaway stated they have no problem providing a wood privacy fence along his lot line.

William Lowe stated another concern he has is adequate security on the property so the adjoining neighbors do not have to worry about things that come along with these types of business.

Davie Bentz stated the only issue that isn’t resolved at the time is the additional access that is proposed to allow for adequate circulation throughout the site.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if they would be willing to provide a wood privacy fence along the South lot line.

Mark Hadaway stated that would not be a problem.

Erik Lundy stated the wood fence height would need to be reduced as they approach the residential front yard to the South.

COMMISSION ACTION:

Will Page made a motion for staff recommendation, APPROVAL of the proposed Type 2 Design Alternatives listed in Section II. A, B, C, and D and DENIAL of the proposed Type 2 Design Alternatives listed in Section II. E, F, G, and H with the condition that a 6-foot tall wood privacy fence be installed along the South and West property lines in accordance with where it would be allowed by Chapter 135 of the City Code.

THE VOTE: 9-1-1 (Carolyn Jension abstained and Greg Jones voted in opposition indicating he did not agree with denial of E).

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Committee and Director’s Reports:

Michael Ludwig stated that the July 16, 2020 Plan and Zoning Commission meeting will be held in a virtual format.

Meeting adjourned at 8:10 pm.