The August 6, 2020 meeting of the Plan and Zoning Commission was held via virtual Zoom Webinar ID 925 8535 1093.


P&Z ABSENT: Lisa Howard

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

Will Page made a motion to approve the July 16, 2020 Plan and Zoning Commission meeting minutes. Motion carried 12-0-1 (Abigail Chungath abstained as she was not present for the July 16 meeting).

Jann Freed asked if any members of the public or the Commission requested to speak on consent agenda items #1, #2, #3, #4, #5 or #6. No one requested to speak.

Bert Drost stated item #10 could be moved to the consent portion of the agenda, as staff has recommended approval and the applicant agrees with staff recommendations.

Dory Briles made a motion to move item #10 to the Consent Agenda. Motion carried 13-0.

Will Page made a motion to approve Consent Agenda Items #1, #2, #3, #4, #5, #6 and #10. Motion carried 13-0 for items #1, #3, #4, #5, #6 and #10. Motion Carried 12-0-1 for item #2 (Greg Wattier abstained from the vote).

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request for property located at 4104 Amherst Street, 4102 North Union Street, the vacated alley immediately adjoining 4101 Amherst Street and Lots 18 and 19 of Madison Gardens. The subject property is owned by True Bible Baptist Church and City of Des Moines.

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 the revise the future land use classification from Low Density Residential to Public/Semi-Public. This also includes property at 4101 Amherst Street. (21-2020-4.14)

C) Rezone property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District, to allow existing surface parking to be reconstructed with
underground stormwater detention as part of the City’s regional Hamilton Drain project.

(ZON2020-00083)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow construction of underground stormwater detention under the existing surface parking lot. The construction project would be part of the City’s regional Hamilton Drain project. Following completion of the underground stormwater detention, the property owner would reestablish use of the subject parcels south of East Shawnee and west of Amherst Street as surface parking lots. The southern portion of the city alley right-of-way midway between Amherst Street and Bowdoin Street would be included with the property.

2. Size of Site: Approximately 60,094 square feet (1.38 acres).

3. Existing Zoning (site): “N3a” Neighborhood District and “P2” Public, Civic, and Institutional District.

4. Existing Land Use (site): The subject properties contain a structure utilized religious assembly, a vacated alley right-of-way, a portion of an alley right-of-way, and two surface parking lots.

5. Adjacent Land Use and Zoning:

   - **North** – “N3a”; Use is a one household dwelling.
   - **South** – “N3a”; Use is a one household dwelling.
   - **East** – “N3a”; Use is a one household dwelling.
   - **West** – “N3a”; Use is a one household dwelling.

6. General Neighborhood/Area Land Uses: The subject properties are located at the intersection of East Shawnee Avenue and Amherst Street in an area that predominantly consists of one-household residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Highland Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 17, 2020 (20 days prior to the public hearing) and July 27, 2020 (10 days prior to the public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.
All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Highland Park Neighborhood Association mailings were sent to Ashley Kennebeck, 3818 7th Street, Des Moines, IA 50313.

Due to the COVID-19 pandemic, a neighborhood meeting was not held. As the proposed project is City initiated, notices sent 10 days and 20 days prior to the August 6, 2020 meeting of the Plan and Zoning Commission to each property owner within 250 feet serve as both neighbor communication and courtesy notification.

8. **Relevant Zoning History:** On February 27, 2019 by Docket No. ZON2019-00003, the Zoning Board of Adjustment conditionally approved an appeal for a Special Permit for an institution of religious character, to allow expansion of the existing church use to include construction of an addition, generally measuring 6 feet by 16 feet, to the south façade of the building, which would be within 0 feet of the front (south) property line along East Shawnee Street; retention of mechanical equipment along the south façade of the building that is within 0 feet of the front (south) property line along East Shawnee Street; construction of an addition, measuring 5 feet by 26.25 feet, to the north façade of the building, which would be within 0 feet of the side (north) property line; and installation of mechanical equipment to the west of the building, which would be within 12 feet of the front (west) property line along Amherst Street.

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

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

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM Creating Our Tomorrow:** The applicant is proposing to amend the existing land use designation of the subject property from “Low-Density Residential” to “Public/Semi-Public”.

   Low- Density Residential -- Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.
Public/Semi-Public -- Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

The applicant is proposing to rezone the property from “N3a” Neighborhood District to “P2” Public, Civic, and Institutional District. The “P2” District allows for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure includes public or private infrastructure, including rail corridors and utility corridors or sites.

2. Planning and Design Ordinance: Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

3. Utilities: An abandoned storm sewer conduit is located through the southernmost subject property. An enclosed gravity pipe storm sewer conduit is located through the southern portion of the southernmost subject property. Easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the purchaser’s expense.

The subject property at 4101 Amherst Street is already zoned “P2”, while the subject properties to the west and south, across Amherst Street and East Shawnee Street respectively, are surface parking lots utilized by the church zoned “N3a”. The proposed rezoning of the subject parcels currently zoned “N3a” to “P2” District would allow for the existing and proposed uses of religious assembly and infrastructure. All subject properties are currently designated “Low-Density Residential”. Amending the designations of the subject property would bring the zoning and the Land Use Plan into conformance.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the requested rezoning to “P2” District be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan future land use classification from Low Density Residential to Public/Semi-Public for the subject properties.

Part C) Staff recommends approval of rezoning the subject property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the property owner’s expense.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.
COMMISSION ACTION:

Will Page made a motion for: Part A) that the requested rezoning to “P2” District be FOUND IN CONFORMANCE with the PlanDSM Creating Our Tomorrow Comprehensive Plan, Part B) APPROVAL of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan future land use classification from Low Density Residential to Public/Semi-Public for the subject properties and Part C) APPROVAL of rezoning the subject property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the property owner’s expense.

THE VOTE: 13-0

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Item 2

Request from LawMark, L.P. (owner) to designate the “Financial Center” property located at 606-666 Walnut Street and 207 7th Street as a Local Landmark.

(20-2021-4.01)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Case Overview: The subject property is located on the southeast corner of the Walnut Street and 6th Avenue intersection in the downtown. The property also has frontage on Mulberry Street to the south. Construction of the Financial Center was completed in 1974. The building consists of a 25-story tower flanked by lower wings with underground parking in the basement.

On July 7, 2020, the Landmark Review Board unanimously approved the recommendation that the “Financial Center” be designated a local Landmark. The Board is comprised of the Historic Preservation Commission and the Urban Design Review Board. The Board meets as needed to review nominations and proposed alternations to landmarks not located within a local historic district.

The Landmark Review Board and the Plan and Zoning Commission recommendations will be forwarded to the City Council for review in accordance with Chapter 58-60 and Chapter 82-40 of the City Code. If the site is designated as a Landmark then any alteration, new construction, or demolition would be subject to review by the Landmark Review Board and require approval by the City Council.

2. Size of Site: 1.19 acres.

3. Existing Zoning (site): “DX1” Downtown District.
4. **Adjacent Land Use and Zoning:**

   - **North** – “DX1”; Uses are commercial.
   - **South** – “DX1”; Uses are commercial.
   - **East** – “DX1”; Uses are commercial.
   - **West** – “DX1”; Uses are commercial.

5. **Applicable Recognized Neighborhood(s):** The subject building is located within the Downtown Des Moines Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Final Agenda on July 31, 2020. All agendas are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street, #413, Des Moines, IA 50309.

6. **PlanDSM Land Use Plan Designation:** Downtown Mixed Use.

7. **Applicable Regulations:** Pursuant to Chapter 82-40(a) of the City Code, the Plan and Zoning Commission is an advisory body to the City Council and is a key factor in the growth and development of the city. Therefore, the Commission reviews all local Landmark and Historic District nominations in accordance with the Historic Preservation Ordinance and for compliance with the City’s Comprehensive Plan and forwards a recommendation to the City Council.

## II. APPLICABLE SECTIONS OF THE CITY CODE

Section 58-56 of the Historic Preservation Ordinance contains the landmark purpose statement. Section 58-58 contains the criteria for the designation of a landmark and Section 58-60 establishes the nomination process.

### Sec. 58-56. Purpose.

It is declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this article is to:

1. Effect and accomplish the protection, enhancement and perpetuation of such improvements which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

2. Safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements;

3. Stabilize and improve property values;
(4) Foster civic pride in the beauty and accomplishments of the past;

(5) Protect and enhance the city's attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry;

(6) Strengthen the economy of the city; and

(7) Promote the use of landmarks for the education, pleasure and welfare of the people of the city.

Sec. 58-58. Designation criteria.

(a) For purpose of this article, a landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon that possesses integrity of location, design, setting, materials, workmanship, feeling and association and that:

(1) Is significant in American history, architecture, archaeology and culture;

(2) Is associated with events that have made a significant contribution to the broad patterns of our history;

(3) Is associated with the lives of persons significant in our past;

(4) Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

(5) Has yielded or may be likely to yield information important in prehistory or history.

(b) Ordinarily cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historic buildings; properties primarily commemorative in nature; and properties that have achieved significance within the past 50 years shall not be considered eligible for the landmark designation. However, such properties will qualify if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(2) A building or structure removed from its original location which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

(3) A birthplace or grave of a historical figure of outstanding importance, if there is no appropriate site or building directly associated with his or her productive life.
(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.

(5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.

(6) A property primarily commemorative in nature, if design, age, tradition or symbolic value has invested it with its own historical significance.

(7) A property achieving significance within the past 50 years, if it is of exceptional importance.

Sec. 58-60. Procedures.

(a) The historic preservation commission shall consider the nomination of landmarks and landmark sites located within historic districts, and make a report and recommendation on such nomination to the city plan and zoning commission and city council as provided below. The landmark review board shall consider the nomination of landmarks and landmark sites located outside historic districts and make a report and recommendation on such nomination to the city plan and zoning commission and city council as provided below.

(b) Notice that an application for designation of a landmark or landmark site is being considered shall be given to the owner of the parcel on which the proposed landmark is situated or which is part of the proposed landmark site in accordance with the following:

(1) Such notice shall be served by certified mail, addressed to the owner at his or her last known address as such appears in the records of the county treasurer's office, or if there is no name on such records, such notice may be served by regular mail addressed to "owner" at the street address of the property in question.

(2) Such owner shall have the right to confer with the historic preservation commission or landmark review board, as applicable, prior to final action by the commission or board on the application.

(3) The historic preservation commission or landmark review board, as applicable, may, in addition, hold the public hearing of the proposed designation by giving notice as required by law.

(c) After such investigation by the historic preservation commission or landmark review board as is deemed necessary, but in no case more than 60 days after the receipt of the complete application, the application for designation shall be recommended for approval or disapproval. Such recommendation shall be in writing and signed by the chair of the historic preservation commission or landmark review board, as applicable, and shall state the reasons for recommending approval or disapproval. The recommendation may limit itself to the proposed landmark or landmark site as described in the application or may include modifications thereof. Such
recommendation shall be forwarded to and filed with the plan and zoning commission, within five days after making such recommendation.

(d) Upon receipt of such recommendation, the plan and zoning commission shall schedule a public hearing at a specific place, date and time, not more than 30 days after such receipt, by giving notice as required by law.

(e) Within 30 days after the public hearing, the plan and zoning commission shall forward such application to the city council, together with the recommendation of the historic preservation commission or landmark review board. The plan and zoning commission may adopt the recommendation of the historic preservation commission or landmark review board as its own or may prepare a written recommendation of its own. The plan and zoning commission may limit itself to the proposed landmark or landmark site or may include modifications thereof. If the modification requires an additional public hearing, the plan and zoning commission shall hold such hearing before forwarding the application to the city council.

(f) Upon receipt of such recommendation, the council shall schedule a public hearing to consider the recommendation at a specific place, date and time, not more than 30 days after such receipt, by giving notice as required by law.

(g) The city council, after public hearing, may approve, approve with modification, or disapprove the recommendation of the plan and zoning commission by a majority vote of its membership. If the plan and zoning commission shall have failed to act within the time limit set forth in this section, the city council may, nevertheless, approve, approve with modification, or disapprove the proposed landmark or landmark site as originally proposed or modified by a majority vote of its membership.

II. ANALYSIS

1. Landmark Nomination Criteria: A nomination must demonstrate that the subject building or site possesses integrity of location, design, setting, materials, workmanship, feeling and association and meets one or more of the following criterion.

   (1) Is significant in American history, architecture, archaeology and culture;
   (2) Is associated with events that have made a significant contribution to the broad patterns of our history;
   (3) Is associated with the lives of persons significant in our past;
   (4) Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
   (5) Has yielded or may be likely to yield information important in prehistory or history.
The nomination suggests the building meets Criterion 2 and 4. The following points from the submitted form make the case for how the building “is associated with events that have made a significant contribution to the broad patterns of our history” and “embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.”

- Developed as the state’s tallest skyscraper to be built in 50 years, the Financial Center is the city’s most prominent example of the Late Modern International Style of architecture. The Financial Center embodies the style’s principle tenets of asymmetrical massing, emphasis of volume, use of industrial material, and functionality over ornament, as designed and built by architect Phoenix-based Russell McCaleb, AIA, and general contractor Henry C. Beck Co., with the east wing detailed by the local firm of Lynch, Payne, Champion, Bernabe, Inc., as constructed by local contractor Weitz Co.

- The tower rises from an asymmetrical plinth consisting of two wings that are differentiated to reflect the two different financial institutions that anchored the complex. Volume is emphasized with the rhythmic verticality of tapered precast concrete and formed aluminum fins and subtle patterns in the curtain wall glass repeating on all four sides of the 25-story tower and echoing with variation on the two- and three-story plinth wings.

- Form follows function with the creamy white painted industrial concrete and aluminum mullion fins shading the recessed curtain wall of non-reflective tinted bronze insulated glazing and insulated spandrel glass; the overall effect is to reduce glare and solar gain, increasing tenant comfort and reducing air conditioning load. The creamy white and nonreflective bronze finishes, terminating at flat roofs behind broad perimeter concrete parapet walls with recessed shadow line, contrasted with surrounding buildings and made the Financial Center a standout beyond its height.

- The Financial Center realized the ideals of a modern banking and office high rise, adding status as well as stature to the downtown skyline, while also demonstrating progress and vitality during Des Moines’ 1970s post-interstate freeway era of central business district redevelopment. Notably, the Financial Center appears to be the first downtown Des Moines private office high rise to offer underground parking and incorporate fire suppression to meet a new city fire code for high rise buildings.

- The Financial Center appears to be the first private office high rise to incorporate planned accommodation for an interior skywalk route. Other key features of the Financial Center complex include a central circulation and service core with eight elevators divided into two banks for more efficient service to top floors; mechanical systems on each floor to provide tenants with variable control; additional west wing bank circulation core with two additional private elevators, rear stairs, and file conveyor system; and a flexible floor plate and
concrete floor systems built to accommodate the weight of bank vaults and other specialized bank equipment. These features defined the Financial Center as the most modern skyscraper in Des Moines upon its completion, differentiating it from earlier downtown office buildings and establishing new standards for future office development that followed.

- The Financial Center is strongly associated with its major tenant, the Iowa-Des Moines National Bank, which as the premier and largest bank in Iowa at the time of construction was a leading force for downtown Des Moines economic redevelopment during the 1970s. Prior to the Financial Center’s announced construction, public opinion of downtown Des Moines plummeted as businesses left for new suburban locations made readily accessible by the recently completed interstate freeway loop.

- The $21 million Financial Center project—when announced it was the highest dollar private downtown Des Moines office construction project in the post-war era—set a new local standard for investment in the city’s central business district.

- Located within the city’s new downtown redevelopment zone, the Financial Center was designed as a linchpin in the nascent skywalk system, intended to invigorate the commercial business district.

- The Financial Center project was noted as the state’s first joint development project coordinated by two competing financial institutions, the Iowa-Des Moines National Bank and Des Moines Savings and Loan Association; cooperation allowed for a larger unified complex dedicated to modern banking and Class A professional office space.

- The Financial Center continues to reflect the legacy of Iowa-Des Moines National Bank and Des Moines Savings and Loan Association and their vision for downtown Des Moines in the 1970s.

2. PlanDSM Creating Our Tomorrow: The PlanDSM Comprehensive Plan was approved on April 25, 2016. The nomination is supported by numerous PlanDSM Goals and Policies including:

   Land Use Goal 6
   Recognize the value of Des Moines’ historic building stock and landscapes and ensure their preservation

   LU 35: Encourage expansion and establishment of National Historic Districts, local historic districts, and local landmarks.

   Community Character and Neighborhood Goal 1
   Embrace the distinct character offered in each of Des Moines’ neighborhoods.
CCN1: Celebrate the City’s culture and diversity through the creation of vibrant neighborhood nodes and corridors.

**Community Character and Neighborhood Goal 4**
**Protect Des Moines’ historic and cultural assets that contribute to neighborhood and community identity.**

CCN25: Partner with the historic preservation community to promote Des Moines’ rich history through education and outreach on historic structures, districts, and landscapes.

### III. STAFF RECOMMENDATION

Construction of the Financial Center started 48 years ago. Section 58-58(b) of the Historic Preservation Ordinance allows a building of less than 50 years of age to be designated a landmark “if it is of exceptional importance.” The Financial Center is an iconic building in the downtown and staff believes it is of exceptional importance to Des Moines. Staff recommends that the “Financial Center” property be designated as a local Landmark.

### SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

### COMMISSION ACTION:

Will Page made a motion for approval of the “Financial Center” property be designated as a local Landmark.

**THE VOTE: 12-0-1 (Greg Wattier abstained from the vote).**

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**Item 3**

Request from Iowa Laborers’ Education and Training Trust Fund (owner) represented by Mike Weckman (officer) for review and approval of a PUD Final Development Plan “Iowa Laborers Training Facility”, for property located at 4560 East 46th Street, to allow development of a 15,000-square foot indoor training and storage facility with an outdoor training ground. (10-2020-7.123)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant proposes to develop the property for an indoor and outdoor training center for skilled laborers practicing infrastructure and utility work. The building would house an indoor training environment, offices and some storage for equipment and materials related to the training.

2. **Size of Site:** 7.12 acres.

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

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

5. **Adjacent Land Use and Zoning:**
   - **North** – “N2a”, Uses are one household living dwellings.
   - **South** – “Legacy PUD” & “MX3”, Uses are multiple household living dwellings and vacant land.
   - **East** – “N1a” & “MX3”, Uses are one household living dwellings.
   - **West** – “N2a” & “Legacy PUD”, Use are one household living dwellings and vacant timbered land.

6. **General Neighborhood/Area Land Uses:** The subject property is located north and west of the Hubbell Avenue (U.S. Highway 6) corridor.

7. **Applicable Recognized Neighborhood(s):** The subject property is not in a recognized neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on July 17, 2020. Additionally, separate notification of the hearing for this specific item was mailed on July 27, 2020 (10 days prior to the original public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the Final PUD Development Plan boundary. A final agenda was mailed on July 31, 2020.

8. **Relevant Zoning History:** The subject property was rezoned by the City Council from “A-1” District to “PUD” District on October 27, 1997.

   On December 2, 2019 the City Council approved the 8th Amendment to the Baker “PUD”, allowing the development of 7.12 acres with a building for a training center and equipment storage as well as an outdoor training site. This was subject to the following:

   A) Conformance with all administrative comments of the final Mylar review.
B) Provision of specific elevations with labeled materials and dimensions of the proposed building for Parcel A as approved by the Planning Administrator prior to final Mylar review approval.

C) Provision of 5-foot public sidewalks along all public street frontages with any PUD Development Plan.

D) Provision of a note on the Conceptual Plan that any overhead doors on any building shall not be oriented towards a public street.

E) Provision of a note on the Conceptual Plan that any clearing and excavations as part of the outdoor training are on Parcel A shall be approved by the Engineering Staff in the Permit and Development Center.

F) Provision of a note that any tree removal shall comply with the Tree Removal and Mitigation regulations in Article X, of Chapter 42 of the City Code.

G) Provision of a note that hours of operation for any outdoor training activity on Parcel A shall be limited between the hours of 7:00 A.M. to 7:00 P.M.;


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

II. ADDITIONAL APPLICABLE INFORMATION

1. Natural Features/Landscaping: While the property is currently mostly tilled agricultural land, there are dense timbered areas to the northwest and southwest of the proposed amendment area. These timbered areas would partially segregate the subject amendment area from and protect residential areas to the northwest and southwest. The PUD Final Development Plan indicates tree removals resulting from the proposed development and has provided mitigation per the City’s Ordinance. This results in 8 additional tree plantings.

The propose landscaping includes overstory tree plantings along the east and south public street perimeters. A dense evergreen and overstory planting strip is proposed along the northern edge of the property where development would abut existing residential areas. There are foundation plantings proposed including shrubs and ornamental trees.

Conservation easement areas are indicated on the PUD Final Development Plan for the protection of timbered areas that are not to be disturbed by the development.

2. Drainage/Grading: There is an existing slope easement along the drainage way to the south to protect stream bank stabilization improvements that have been put in place. The City would need to ensure access through any development to maintain these areas over time. Any permanent grading shall be accompanied by a PUD restoration bond. The developer has begun the process for the bond approval. The small amount of grading or excavation for the outdoor training function is subject to Engineering approval in accordance with the PUD Conceptual Plan amendment.
3. **Traffic/Street System:** A Traffic Impact Study was not required prior to the proposed PUD Conceptual Plan amendment or the PUD Final Development Plan pursuant to City policy given the anticipated number of trips for the training facility. The developer has proposed 6-foot wide sidewalks along East 46th Street and Hubbell Avenue frontages to comply with the PUD Conceptual Plan amendment, the City’s complete streets policy, and the MoveDSM Plan.

4. **Urban Design:** The approved PUD Conceptual Plan indicates that buildings shall be constructed of permanent materials such as, tilt-up concrete panels, architectural pre-cast panels, brick, stone and glass. Only durable materials such as stone, brick, block, concrete panels or concrete tile shall be used on the base four-feet of all sides of the building.

   The submitted PUD Final Development Plan provides an elevation design for the proposed training center building that complies with the City Council action on December 2, 2019 and has been approved by the Planning Administrator. It would be a predominantly split-face concrete masonry block units and glass with some architectural metal on the exterior of the building. There would be contrasting horizontal banding of the masonry units to reduce the visual impact of the building height. While the developer initially proposed exterior materials with a substantial amount of EIFS or stucco with integrated insulation, the revised material palette is more in keeping with the intent for commercial buildings within the PUD. The roof proposed would be standing seam metal. Overhead doors are proposed on the west side of the building and are not oriented toward public street frontages.

**III. STAFF RECOMMENDATION**

Staff recommends approval of the proposed PUD Final Development Plan subject to the compliance with all administrative review comments.

**SUMMARY OF DISCUSSION**

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

**COMMISSION ACTION:**

Will Page made a motion for **APPROVAL** of the proposed PUD Final Development Site Plan subject to the compliance with all administrative review comments.

**THE VOTE:** 13-0

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Item 4

Request from Samuel and Elizabeth Waters (owners) for review of the following Type 2 Design Alternatives in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 1511 Beaver Avenue, to allow construction of a 5-foot by 13.5-foot, 1-Story kitchen addition with crawlspace on the northwest side of the existing 2-Story house within 12 feet of the northwest side property line. The project was reviewed as a House Type A in an “N1b” Neighborhood District.

(BLD2020-00875)

A) Allow a decrease in the total side yard from 17 feet to 12 feet per Section 135-2.13.3.A.5.

B) Allow a crawlspace in lieu of the required full basement per Section 135-2.13.3.E.5.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 5-foot by 13.5-foot, 1-story addition to kitchen on the northwestern side of the existing house. The addition is proposed with a crawlspace. The addition would be constructed of brick and asphalt roof materials to match the existing dwelling. The architectural design would also conform to the existing dwelling.

2. Size of Site: 80-foot by 150-foot parcel (12,000 square feet).

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

4. Existing Land Use (site): 2-story one household dwelling with attached 1-story garage.

5. Adjacent Land Use and Zoning:
   
   North – “P1”; Use is Wittmer City Park.
   South – “N4”; Uses are one-household dwellings.
   East – “N1b”; Uses are one-household dwellings.
   West – “N1b”; Uses are one-household dwellings.

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

7. Applicable Recognized Neighborhood(s): The subject property is within an area shared between Beaverdale Neighborhood and Drake Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on July 17, 2020 and the Final Agenda on July 31, 2020.
Additionally, separate notifications of the hearing for this specific item were mailed on July 27, 2020 (10 days prior to the hearing) to the affected neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Beaverdale Neighborhood Association mailings were sent to Marcus Coenen, PO Box 30175, Des Moines, IA 50310. The Drake Neighborhood Association mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: On September 28, 1994, by Docket No. 14-951.25, the Zoning Board of Adjustment granted an Exception of 11 feet less than the minimum 30 feet of rear yard to allow construction of a 17-foot by 20-foot addition to the rear of the dwelling. This was a 1-story addition constructed with a basement.


10. Applicable Regulations: Section 135-2.13.3.A.5 states that for House Type A the minimum side yard on one side shall be 10 feet with a total side yard of 25 feet on both sides.

Section 135-2.13.3.E.5 requires that all House Type A have a full basement.

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Type 1 Design Alternatives Approved Administratively:

   A. The roof type of the addition proposed is low pitched when pitched roof (5:12 or greater) is required for House Type A per Section 135-2.13.3.D.21. A Type 1 Design Alternative was approved to maintain the character of the low-pitched roof on the primary dwelling.

2. Staff Rationale: Staff has reviewed the proposed addition relative to the character of the existing dwelling and the surrounding neighborhood area. While the proposed addition does bring the total side yard below 25 feet, the reduction of the side yard in question would still be 12 feet from the property to the northwest which is greater than the 10 feet minimum side yard required by code. The major reduction in the total side yard is created by the existing 0 feet garage setback from the southeast lot line. This applicant also owns the adjoining lot to the southeast and previously constructed a dwelling on that parcel. The reduction to the northwest side yard setback would not create any detrimental impact on neighboring properties if addition is constructed in accordance with the submitted plans.
The existing dwelling has a basement with 1,090 square feet in area, 340 square feet of it finished. The upper floors have 1,990 square feet of living area. This exceeds the minimum area for 2-story House Type A, which seeks 1,800 square feet.

The proposed crawl space would be integrated into the full basement of the dwelling giving it the appearance of exposed basement area of the existing dwelling. The brick design would include soldier coursing to tie into the design of the main dwelling. While the crawl space would not be a full-story, it would have significant depth below grade to blend into the overall design.

Staff is not aware of any topographical or sewer related issues with providing a full basement under the addition. However, Staff believes that the small size of the addition in relation to the house and the existing basement does not warrant the additional expense of providing a full basement beneath the addition. The proposed design for the addition would not have an adverse impact on surrounding property and would be in character with the principal dwelling and the surrounding neighborhood area. The overall building design meets the intent of Chapter 135.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternatives for Parts A and B.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Will Page made a motion for approval of the requested Type 2 Design Alternatives for Parts A and B.

THE VOTE: 13-0

Item 5

Request from Casey and Tammy Simpson (owners) for review of the following Type 2 Design Alternative in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 5635 Southeast 19th Street, for 7-feet 4-inches over the maximum 14-foot story height per Section 135-2.13.3.B.14, for 21-feet 4-inches of total story height, which would allow construction of a 2,820-square foot indoor pool.
addition, a 376-square foot dining room addition, and a 501-square foot deck enclosure to the north and west of the existing 1-story house.

(BLD2020-01597)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a 2,820-square foot indoor pool addition, a 376-square foot dining room addition, and a 501-square foot deck enclosure to the north and west of the existing 1-story house. The requested Type 2 Design Alternative would allow the portion of the addition that would contain the swimming pool to have a story height of 21 feet and 4 inches (21.33 feet).

The subject property is located within an “N1a” Neighborhood District and the proposed house plan was reviewed under the House Type A building type regulations (Section 135-2.13). 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: 790 feet (147,194 square feet or 3.38 acres).

3. Existing Zoning (site): “N1a” Neighborhood District.

4. Existing Land Use (site): The subject property contains an existing one-household dwelling, a detached garage, and an outdoor swimming pool.

5. Adjacent Land Use and Zoning:

North – “P1”; Use is City of Des Moines’ Ewing Park.
South – “N1a”; Uses are one-household dwellings.
East – “P1”; Use is City of Des Moines’ Ewing Park.
West – “N1a”; Uses are one-household dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located at the northern end of a dead-end segment of Southeast 19th Street that contains one-household dwellings on large lots. The City of Des Moines’ Ewing Park is immediately to the north and east of the subject property.

7. Applicable Recognized Neighborhood(s): The subject property is in the Easter Lake Area Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on July 17, 2020. Additionally, separate notification of the hearing for this specific item was mailed on July 27, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the property. A final agenda was mailed on July 31, 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 Easter Lake Area Neighborhood mailings were sent to Jim Bollard, 4007 SE 26th Street, Des Moines, IA 50320.

8. Relevant Zoning History: None.


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

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

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

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

  - Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
• Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;

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

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

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

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

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

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

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

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

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

  ➢ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
 Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Type 1 Design Alternatives: The following Type 1 Design Alternatives have been approved administratively during the initial review of the proposed building addition:

   B. 7.5 feet (20%) less than the required 37.5-foot front setback, based on averaging, to allow the addition to have a 30-foot front setback. This Type 1 design alternative was approved pursuant to Section 135-10.2.2.A. and Section 135-2.1.3.E.

   C. 0.875-foot (9.72%) less than the minimum required 9 feet of story height, to allow the proposed dining area addition to have a story height of 8.125 feet, which matches the height of the existing house. This Type 1 design alternative was approved pursuant to Section 135-9.2.3.A.5.a (ground story).

2. Staff Rationale: The appellant faces a challenge in constructing an addition for an indoor swimming pool since the maximum story height allowed is 14 feet. Granting this design alternative 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. The subject property is located on a 3.38-acre lot that is heavily wooded and located at the northern terminus of a segment of Southeast 19th Street. The proposed placement and configuration of the addition minimizes its visibility from public right-of-way. Furthermore, the proposed building elevations demonstrate that the addition would be compatible with the design of the existing dwelling.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested Type 2 Design Alternative.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.
COMMISSION ACTION:

Will page made a motion for APPROVAL of the requested Type 2 Design Alternative.

THE VOTE: 13-0

Item 6

Request from Fred and Charlotte Hubbell (owners) for review of the following Type 2 Design Alternative in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 3721 Lincoln Place Drive, to allow construction of a 19.75-foot by 17-foot sunroom addition to the northeast side of the existing 1-story house to be reviewed under House Type D requirements in an “N5” Neighborhood District, with waiver to allow 34.75 feet over the maximum permitted 60 feet of building width per Section 135-2.16.3.A.7, for 94.75 of total building width with the addition.

(BLD2020-01603)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to construct a new sunroom on the northeast façade of the existing structure. The subject property is located within a N5 district and the proposed house plan was reviewed under the House D building type regulations (Section 135-2.16) which limit maximum building width to 60 feet. A Type 1 Design Alternative may allow up to 75-foot building width. The existing structure measures 78 feet. The proposed sunroom addition would increase the maximum building width to 94.75 feet which exceeds the allowance for administrative waiver and require a Type 2 Design Alternative by Plan and Zoning Commission.

2. Size of Site: 260-foot frontage of an irregularly-shaped parcel (33,400 square feet).

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

4. Existing Land Use (site): The property contains a one-household dwelling with attached garage.

5. Adjacent Land Use and Zoning:

   North – “N1a”; Uses are one-household dwellings.
   South – “N3a”; Uses are one-household dwellings.
   East – “N1a” & “N3a”; Uses are one-household dwellings.
   West – “N5”; Uses are one-household dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is in a residential area that consists of a mix of one-household dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Salisbury Oaks Neighborhood and within 250 feet of Greenwood Historic Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 27, 2020 (10 days prior to the public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

    All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Salisbury Oaks Neighborhood Association mailings were sent to Jenn Kirke, 409 43rd Street, Des Moines, IA 50312. The Greenwood Historic Neighborhood Association mailings were sent to Nicolas Larson, 127 34th Street, Des Moines, IA 50312.

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

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

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

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

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

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

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Type 1 Design Alternatives Approved Administratively:

   D. A 12% reduction in minimum rear setback of 30 feet required by Section 135-2.16.3.A.6 pursuant to Section 135-9.2.3.B.1.

   E. A 0.5-story reduction in required 1.5-story house height required by Section 135-2.16.3.B.12 pursuant to Section 135-9.2.3.A.11.

   F. A 1-foot reduction in required minimum story height of 9 feet required by Section 135-2.16.3.B.14 pursuant to Section 135-9.2.3.A.5.a.

   G. A waiver to the major building material requirement disallowing glass per Section 135-2.16.3.D.21 pursuant to Section 135-9.2.3.B.3 and Section 135-4.1.3.A.

2. Building Design: The applicant is proposing to construct a new sunroom addition on the northeast façade of an existing House Type D building. Section 135-
2.16.3.A.7 states that the allowed maximum building width for a House D building type in an “N5” District is 60 feet. The proposed addition would increase the overall building width from a pre-existing 78 feet to a total of 94.75 feet.

Staff supports the requested Type 2 Design Alternative, so long as the house is built in conformance with the conditions of approval listed in Section III of this report. The surrounding area contains primarily one-household dwellings that exhibit a range of building widths from 25 feet to 122 feet. Additionally, the subject property has a frontage of 260 feet and staff believes that locating the addition as proposed reduces the impact of the additional building width.

III. STAFF RECOMMENDATION

Staff recommends approval of issuing Type 2 Design Alternatives, subject to the following conditions:

1. Any addition shall comply with all administrative review comments.

2. Construction of any addition shall be in substantial conformance with the submitted site plan and building elevations including building materials.

3. Any addition shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the Permit and Development Center.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Will Page made a motion for APPROVAL of issuing Type 2 Design Alternatives, subject to the following conditions:

1. Any addition shall comply with all administrative review comments.

2. Construction of any addition shall be in substantial conformance with the submitted site plan and building elevations including building materials.

3. Any addition shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the Permit and Development Center.

THE VOTE: 13-0
Item 10

Request from Hamilton’s Funeral Home (owner) represented by Sasha Mudlaff (officers) for the properties located at 5310, 5314, and 5400 Southwest 9th Street. Additional subject property is owned by Carlton D. Peterson and Carlton D. Peterson Trust.

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 the revise the future land use classification from Low Density Residential to Neighborhood Mixed Use. (21-2020-4.13)

C) Rezone property from “NX1” Neighborhood Mix District to “RX1” Mixed Use District to allow the expansion of the existing Funeral and Mortuary Services use on the existing property and development of a surface parking lot on the portion of the property on the north side of Kenyon Avenue. (ZON2020-00082)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject site consists of the applicant’s existing funeral home business on the southwest corner of the SW 9th Street and Kenyon Avenue intersection and property on the northwest corner of the intersection that contains a storage building. The proposed rezoning would allow the construction of an addition to the rear of the existing funeral home building and the development of a surface parking lot on the property to the north of Kenyon Avenue. The existing storage building would be demolished.

2. Size of Site: 81,855 square feet (1.88 acres).

3. Existing Zoning (site): “NX1” Neighborhood Mix District.

4. Existing Land Use (site): The site contains a funeral home business and storage building.

5. Adjacent Land Use and Zoning:

   North – “N3a” & “NX1”; Uses are an auto repair business and a one household dwelling.

   South – “NX2”; Use is the Orchard Place Children’s Home.

   East – “NX1”; Uses are one household dwellings.

   West – “N3a”; Use is the Orchard Place Children’s Home.
6. **General Neighborhood/Area Land Uses:** The subject property is located along
the SW 9th Street corridor in an area that contains a mix of commercial and
residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Watrous
South Neighborhood and within 250 feet of the Fort Des Moines Neighborhood. The
neighborhood associations were notified of the public hearing by mailing of the
Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item
were mailed on July 17, 2020 (20 days prior to the public hearing) and on July 27,
2020 (10 days prior to the public hearing) to the Watrous South Neighborhood
Association, the Fort Des Moines Neighborhood Association and to the primary
titleholder on file with the Polk County Assessor for each property within 250 feet of
the site.

All agendas and notices are mailed to the primary contact(s) designated by the
recognized neighborhood association to the City of Des Moines Neighborhood
Development Division on the date of the mailing. The Watrous South Neighborhood
mailings were sent to James Spiller, P.O. Box 35845, Des Moines, IA 50315. The
Fort Des Moines Neighborhood mailings were sent to Scott Durham, 301 East
Kenyon Avenue, Des Moines, IA 50315.

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

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

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

II. ADDITIONAL APPLICABLE INFORMATION

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

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

The applicant is proposing to rezone the property from “NX1” Neighborhood Mix to
“RX1” Mixed-Use District. The Zoning Ordinance states that “NX1 is intended for a
mix of single- and smaller-scaled multiple-household uses and building forms to
preserve the scale and character of the existing neighborhood while allowing for new infill housing.” Building types allowed in this district include the Civic Building, Row Building, House C and House D.

The proposed “RX1” District requires the “Neighborhood Mixed Use” future land use map designation. Plan DSM describes this designation as follows:

**Neighborhood 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 “RX1 is intended for transitional areas between MX districts and N districts, providing for residential and office building at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.” Building types allowed in this district include the Commercial Cottage, General Building, Principal-Use Parking Structure Civic Building, Flat Building and Row Building.

The subject site is located along the SW 9th Street, which is a significant transportation corridor that contains a mix of uses. The proposed land use map designation and zoning district are appropriate to the character of the area and align with the goals of Plan DSM.

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

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

4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

III. **STAFF RECOMMENDATION**

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

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Neighborhood Mixed Use.
Part C) Staff recommends approval of rezoning the subject property from “NX1” Neighborhood Mix District to “RX1” Mixed-Use District

SUMMARY OF DISCUSSION

Bert Drost stated item #10 could be moved to consent as staff has recommended approval and the applicant agrees with staff recommendations.

Dory Briles made a motion to move item #10 to the Consent Agenda. Motion carried 13-0

COMMISSION ACTION:

Will Page made a motion for approval of Part A) the proposed rezoning to “RX1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Public/Semi-Public.”, Part B) APPROVAL of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Neighborhood Mixed Use and Part C) APPROVAL of rezoning the subject property from “NX1” Neighborhood Mix District to “RX1” Mixed-Use District.

THE VOTE: 13-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 7

Request from Anchor Investment Group, LLC represented by Michael Donlin (officer) for the following for property located at 827 Shaw Street.

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 classification from Low-Medium Density Residential to High Density Residential. (21-2020-4.11)

C) Rezone property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District, to allow demolition of the existing House Building Type and detached garage with Household Living and redevelop with a 5-Unit Row Building Type with Household Living. (ZON2020-00072)

STAFF REPORT TO THE PLANNING COMMISSION
I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the site to be redeveloped with a rowhouse product. The applicant has submitted a site sketch and conceptual building elevations that indicate the project would consist of one rowhouse structure containing five units. All of the units would be oriented towards SE 9th Street with rear loaded garages accessed from a shared driveway located along the rear (west) property line.

2. **Size of Site:** 132 feet by 75 feet (9,900 square feet or 0.227 acres).

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

4. **Existing Land Use (site):** The site contains a one household dwelling.

5. **Adjacent Land Use and Zoning:**
   - **North** – “N3c”; Uses are one household dwellings.
   - **South** – “N3c”; Uses are one household dwellings.
   - **East** – “N3c”; Uses are one household dwellings.
   - **West** – “N3c”; Uses are one household dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located east of the Des Moines River and south of East Martin Luther King, Jr. Parkway 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 July 16, 2020 public hearing by mailing of the Preliminary Agenda on June 26, 2020 and by mailing of the Final Agenda on July 10, 2020. A Final Agenda for the August 6, 2020 meeting was mailed on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on June 26, 2020 (20 days prior to the July 16, 2020 public hearing) and on July 6, 2020 (10 days prior to the July 16, 2020 public hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   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 notices were mailed to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

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

Low/Medium Density Residential.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

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

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

   The “NX2” District can be found in conformance with the “Low-Medium Density Residential” designation so long as the development complies with the 12 unit per net acre maximum. The applicant has indicated that their intent is to construct 5 units on the 0.227-acre site. This equates to 22 units per acre, which requires the “High Density Residential” designation. Plan DSM describes this designation as follows:

   **High Density Residential:** Areas developed with primarily higher intensity multi-family housing with a minimum density over 17-units per net acre.

   The surrounding area is close to the downtown and is at the edge of the emerging Market District area. It is conceivable that high density development could be appropriate in this area. However, staff believes that should only occur at the edges of the area or if enough land is assembled to allow a logical transition. The subject parcel is not large enough to provide a logical transition from the lower density of the nearby properties.

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

4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

### III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “NX2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”

Part B) Staff recommends denial of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Low-Medium Density Residential to High Density Residential. Thereby, limiting any future development of the site to a density determined to be in conformance with the Low-Medium Density Residential designation.

Part B) Staff recommends approval of rezoning the subject property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District.

### SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Johnny Alcivar asked if the applicant would need to come back to the commission for the appropriate density to be approved?

Jason Van Essen stated the staff recommendation would limit them to 3 units on the subject parcel or they could try to acquire more land. The proposed zoning conforms with the existing land use plan designation but the intended density would not.

Greg Wattier asked if the max would be 3 units if staff recommendation was approved?

Jason Van Essen stated that is correct. 

*Applicant was not present.*

### CHAIRPERSON OPENED THE PUBLIC HEARING

None were present or requested to speak

### CHAIRPERSON CLOSED THE PUBLIC HEARING
COMMISSION ACTION:

Johnny Alcivar made a motion for approval of Part A) the proposed rezoning to “NX2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”, Part B) **DENIAL** of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification from Low-Medium Density Residential to High Density Residential. Thereby, limiting any future development of the site to a density determined to be in conformance with the Low-Medium Density Residential designation and Part B) **APPROVAL** of rezoning the subject property from “N3c” Neighborhood District to “NX2” Neighborhood Mix District.

**THE VOTE:** 12-0-1 (Abigail Chungath abstained from the vote).

Item 8

Request from Jill and Paul Von Ebers (owners) for review of the following Type 2 Design Alternative in accordance with Chapter 135 Section 135-9.2.4.B and 135-9.3.1.B, for property located at 2501 Thornton Avenue, to allow construction of a 2-Story House Type A in an “N1a” Neighborhood District with waiver of the required public sidewalk installation per Section 135-8.5.2.A.

(BLD2020-01650)

STAFF REPORT TO THE PLANNING COMMISSION

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The applicant constructing a house on the subject property and is asking for waiver of the standard that requires them to construct a public sidewalk along Thornton Avenue. Design alternative review criteria can be found in Section I, subparagraph 10 of this report. Staff analysis of the proposal can be found in Section II of the report.

2. **Size of Site:** 213 feet by 436 feet (92,868 square feet or 2.13 acres)

3. **Existing Zoning (site):** “N1a” Neighborhood District.

4. **Existing Land Use (site):** The applicant has been issued a permit to demolish the existing house and accessory structures.

5. **Adjacent Land Use and Zoning:**
North – “N1a”; Use is a one household dwelling.
South – “N3a”; Uses are one household dwellings.
East – “N1a”; Uses are one household dwellings.
West – “N3a”; 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.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 27, 2020 (10 days prior to the public hearing) to the Southwestern Hills Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Southwestern Hills Neighborhood mailings were sent to George Davis, 3124 SW 29th Street, Des Moines, IA 50321.

8. Relevant Zoning History: N/A.


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

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

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

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

- Zoning restrictions at the time of the proposal;

- The city’s comprehensive plan;

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

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

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

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

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

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

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

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

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

- 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. Traffic and Circulations Standards: Section 135-8.5.2A of the Planning and Design Ordinance states “sidewalks are required as identified in the city’s transportation plan.”

2. Staff Analysis: The applicant is in the process of constructing a new house and is requesting waiver of the sidewalk requirement. The subject property and the lot to the east and the lot to the west do not currently have sidewalks. The applicant points to the lack of walks on the immediately joining lots as the basis for their request.

Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. The City Council also noted this as a priority at their April 26, 2019 City Council Planning Session. The adjoining section of Thornton Avenue consists of a rural cross section. City engineering staff have looked at the grade
II. STAFF RECOMMENDATION

Staff recommends denial of the requested Type 2 Design Alternative to waive the sidewalk requirement. The applicant does not face a practical difficulty as it is possible to construct a public sidewalk along Thornton Avenue. Closing gaps within the City’s sidewalk network is a priority of MoveDSM, the City’s transportation plan. It is understood that closing gaps often must be done incrementally and that new sections of sidewalk may not immediately connect to other sidewalk segments. There is public sidewalk along Thornton Avenue one parcel to the east and one parcel to the west.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Dory Briles asked for staff to show where the nearest sidewalks would be.

Jason Van Essen stated sidewalks are located to the West past 26th Street and to the East past 24th Street.

Greg Jones asked if all parties agreed, a walk could be located anywhere from 5-10 feet behind the existing pavement?

Jason Van Essen stated there would be flexibility for the location of the sidewalk after discussion with the Engineering department.

Greg Jones asked if the City plans on doing curb, gutter and storm water along Thornton Avenue?

Jason Van Essen stated there isn’t a budget plan for it and there was no date found for a plan to take place.

Paul Von Ebers present slide slow presentation to the commission.

CHAIRPERSON OPENED THE PUBLIC HEARING

None were present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones asked if there is a way to agree to a bond between the applicant and the City for money needed to install a sidewalk in the future?

Jason Van Essen stated he is aware of agreements where a property owner agrees to a future assessment when a project is constructed.
Mike Ludwig stated there has been a waiver of petition which would give up the right to protest a future assessment. The City has not used assessments in Des Moines for sidewalks so it would never get to that point. Staff has done escrow agreements that involved street lighting in the past, which could be an option.

Glenna Frank stated what has been done recently is escrow agreements and seems to be the most reasonable option as the City has never done assessments for sidewalks.

Greg Wattier asked if the applicant would need to put all that money into escrow so it is available one the plans are in place for sidewalks?

Glenna Frank stated that is correct, money would be escrowed with an agreement to the City and that agreement would be approved by City Council. The money would sit in an account until the applicant or the City does the work.

Will Page asked for more information around the waiver of petition.

Mike Ludwig stated on sidewalk projects, the City has not done assessments on projects. It would take a decision by City Council to do an assessment, not that it could not happen in the future but it is something the current Council has not pursued.

**COMMISSION ACTION:**

Will Page made a motion for approval of the requested Type 2 Design Alternative to waive the sidewalk requirement.

**THE VOTE:** 10-3-0 (Greg Jones, Abigail Chungath and Johnny Alcivar voted in opposition).

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**Item 9**

Request from McFadden Holdings, LLC (owner) represented by Steven McFadden (officer) for the following for property located at 1537 Army Post Road

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

B) Rezone property from “RX1” Mixed Use District to “MX3” Mixed Use District, to allow the existing property and building to be used for a “Vehicle Maintenance and Repair, Minor” use.

(ZON2020-00081)

**STAFF REPORT TO THE PLANNING COMMISSION**
I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone the property so the existing building can be used for a vehicle cleaning and detailing business, which is classified as a “Vehicle Sales and Service, Vehicle Maintenance Repair, Minor” use.

2. **Size of Site:** 10,670 square feet or 1.25 acres.

3. **Existing Zoning (site):** “RX1” Mixed-Use District.

4. **Existing Land Use (site):** The site contains a vacant building that was previously occupied as a vehicle repair business.

5. **Adjacent Land Use and Zoning:**
   - **North** – “RX1”, Use is a mobile home community.
   - **South** - “RX1”, Uses are Army Post Road and retail (Car Quest).
   - **East** – “RX1”, Use is a restaurant (La Cabana Mexican Restaurant).
   - **West** – “RX1”, Use is a mobile home community

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Army Post Road commercial corridor. Low density residential neighborhood areas are generally to the north and south of the corridor.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Watrous South Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on July 17, 2020. Additionally, separate notification of the hearing for this specific item was mailed on July 17, 2020 (20 days prior to the public hearing) and on July 27, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the property. A final agenda was mailed on July 31, 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 Watrous South Neighborhood mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

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.
8. Relevant Zoning History: None.


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. PlanDSM Creating Our Tomorrow: The PlanDSM future land use map designates the Army Post Road commercial corridor as “Community Mixed Use”. The proposed “MX3” Mixed Use District is compatible with this designation.

2. Permitted and Conditional Uses: The proposed vehicle cleaning and detailing business would be an appropriate use of the premise. However, given the limited size of the property and the proximity of residential uses to the north, other uses allowed in the “MX3” District, such as vehicle sales or alcohol sales, would not be appropriate for the site. Therefore, Staff recommends that rezoning of the property to “MX3” Mixed Use District be with the condition that any use of the property be limited to “Vehicle Sales and Service, Vehicle Maintenance/Repair, Minor” or any other use permitted by right or by Conditional Use, as allowed and regulated in the “RX1” Mixed Use District.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the requested rezoning to be in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Community Mixed Use”.

Part B) Staff recommends approval of the requested rezoning of the property from “RX1” District to “MX3” Mixed Use District, subject to the condition that any use of the property shall be limited to the following:

1. Vehicle Sales and Service: Vehicle Maintenance/Repair, Minor; or

2. Any use permitted by right or by Conditional Use, as allowed and regulated in the “RX1” Mixed Use District.

SUMMARY OF DISCUSSION
Bert Drost presented staff report and recommendation.

Abigail Chungath asked if vehicle sales would be allowed by the zoning conditions as recommended by Staff.

Bert Drost stated that allowing vehicle sales was not the intent of the Staff recommendation but that he would verify the wording of the drafted conditions while the applicant gives their presentation.

Dane Schumann, 2501 Grand Avenue, attorney representing McFadden Holdings, LLC, stated that the prior use of the property was an automotive repair business that has since moved out. Given the surrounding lots, this auto cleaning and detailing business would be a compatible use. If the property is rezoned, the applicant does have plans to invest heavily in the property, by paving the parking lot and adding vegetation. They are in favor the recommendation by City staff, as the applicant just wants the property to be used for his auto detailing business. He has purchased 2-3 cars from auction that have been resold from the lot in the past, and that is something that the business owner would like to have the rights to continue to do if possible, but they do not intend to use the property entirely for sales of used cars.

Bert Drost clarified Condition #1 contained in the Staff recommendation. “Vehicle Sales and Service” is the category in the use table of the Zoning Ordinance that the “Vehicle Maintenance/Repair: Minor” subcategory falls under. As such, vehicle sales would not be allowed by the recommended zoning conditions. He presented the definition of “Vehicle Maintenance and Repair, Minor” as contained in City Code Section 134-3.5.19.D in order to provide clarity of the types of uses that could occur.

Dane Schumann stated he thought everything listed would be allowed, but that his client would like the ability to sell a few vehicles from the property.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Bill Phillips, 1602 Army Post Road, stated the notice he received indicated that the property is being rezoned to “MX3” District and that he is concerned of other types of businesses could be allowed in an “MX3” District, such as taverns.

Bert Drost stated the Staff Recommendation would limit the use of the property to the “Vehicle Maintenance/Repair: Minor” subcategory use as defined by City Code Section 134-3.5-19.D, or to a use allowed in an “RX1” District. This would prevent taverns but could allow a restaurant use that sells alcohol. If they wanted to put in a bar, they would need to file a new request to rezone the property, at which time new public notifications would be mailed.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**
COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) the Commission find the requested rezoning to be in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the western portion of the property as “Community Mixed Use” and Part B) APPROVAL of the requested rezoning of the property from “RX1” District to “MX3” Mixed Use District, subject to the condition that any use of the property shall be limited to the following:

1. Vehicle Sales and Service: Vehicle Maintenance/Repair, Minor; or

2. Any use permitted by right or by Conditional Use, as allowed and regulated in the “RX1” Mixed Use District.

THE VOTE: 13-0

Committee and Director’s Reports:

Mike Ludwig stated the meeting will remain virtual through the month of September. Restructuring is occurring within the Community Development and Economic Development Departments. City planning staff will now be in the Development Services Department. As of today, they have posted positions to fill the Planning Administrator and Economic Development Administrator rolls.

Meeting adjourned at 7:30