
ABSENT: Francis Boggus, Jann Freed, Dory Briles and Rocky Sposato.

STAFF PRESENT: Mike Ludwig, Glenna Frank and Tyler Hall.

John “Jack” Hilmes made a motion to approve the April 18, 2019 Plan and Zoning Commission meeting minutes. Motion Carried 7-0-4 (Carolyn Jenison, Greg Wattier Mike Simonson and David Courard-Hauri abstained as they were not present for the April 18 meeting).

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding Consent Agenda Item #1. A member of the audience requested to speak. Item #1 was moved to the Non-Consent agenda.

Jacqueline Easley noted that the applicant for item #2 has requested a continuance to the May 16, 2019 Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding the item.

John “Jack” Hilmes made a motion to continue item #2 to the May 16, 2019 Plan and Zoning Commission meeting. Motion Carried 11-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request for vacation of the north/south alley Right-Of-Way between Southeast 10th Street and Southeast 11th Street from Scott Avenue to Shaw Street. (11-2019-1.07)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: On April 8, 2019 the City Council initiated the vacation of the alley Right-Of-Way (ROW) at the request of the property owner at 1013 Scott Avenue. That property owner indicated interest in acquiring the alley for a paved driveway to their rear yard area for a new garage. The house is too close to the existing west property line to allow a drive way on the existing parcel. That owner has requested the entire width of ROW adjoining their property be conveyed to them.

2. Size of Site: 5,600 square feet (20-feet by 280 feet).

4. **Existing Land Use (site):** ROW that undeveloped and overgrown with voluntary trees.

5. **Adjacent Land Use and Zoning:**
   
   **East** – “R-2A” & “R1-60”, Uses are single-family dwellings.

   **West** – “R-2A” & “R1-60”; Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject adjoining property and ROW are generally located in a low density residential area of the Historic East Village Neighborhood south of Scott Avenue.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on April 12, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on April 22, 2019 (10 days prior to the hearing) to the Historic East Village Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject ROW. A final agenda was mailed on April 26, 2019.

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

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

9. **2020 Community Character Land Use Plan Designation:** Low-Medium Density Residential.

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

**II. ADDITIONAL APPLICABLE INFORMATION**

1. **Access:** The segment of north/south alley is not developed for any access to adjoining properties. Polk County owns a 33-foot by 46.67-foot parcel adjoining the alley ROW on the east. This parcel is otherwise surrounded by the parcel at 1020 Shaw Street. Communication with the Polk County Public Works Real Estate office has determined that the County has not been able to sell the parcel to the adjoining
owner. So, an access easement to that parcel will also have to be reserved with any vacation of the initiated ROW.

2. **Utilities:** There are not any identified public utilities within the initiated ROW. Should any exist in place, the City must reserve easements for any public utilities.

III. **STAFF RECOMMENDATION**

Staff recommends approval of the initiated vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.

2. Reservation of an easement for access to the Polk County owned parcel #040/00033-000-000 from the adjoining public street network.

**SUMMARY OF DISCUSSION**

Mike Ludwig presented staff report and recommendations.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Sheri Brown 1003 Scott Avenue, stated when the neighbors first moved in they discussed sharing the alley way. When the neighbors decided to purchase the alley way they began blocking the portion she uses to get in and out of her driveway. It will cost too much for her to construct a separate access off the street and she is worried about what will happen in the future since this has already become a problem.

Mike Ludwig stated an access easement could be granted for public access and council could then convey the property subject to an easement.

David Courard-Hauri asked what’s the difference between an easement and public access.

Mike Ludwig stated if the alley is conveyed, the city is no longer responsible for maintaining it. The easement would then allow access across private property.

Greg Wattier asked if they were to approve the conveyance, would it be sold immediately to a property owner or sit in limbo until someone purchases it.

Mike Ludwig stated the general Council policy is that each half of a residential alley is offered to the adjoining property owner. However, conveyance would be Council’s decision and they could decide to convey the entire alley to a single property owner. The Planning Commission is asked to review and decide if the alley is needed for public access.

Will Page asked if the City maintains this alley.
Mike Ludwig stated there is a very minimal maintenance policy for residential alleys and there are numerous ones around the City that are overgrown and non-traversable.

Will Page asked for the impetus of this vacation.

Mike Ludwig stated the City Council initiated this request as the adjoining property owner at 1013 Scott Avenue was not able obtain consents from all property owners that adjoin the alley.

Mike Simonson stated the staff report shows the property owner at 1013 Scott wants to pour a new driveway to gain access to a garage.

Mike Ludwig stated that was correct and the owner of 1013 Scott Avenue was not present. They would have to allow people to drive over the alley for any existing, legal access to any adjoining property and a property owned by Polk County.

Mike Simonson stated he fears cars will end up being parked in the driveway and block access because that is what’s happening now. How would this solve that issue.

Mike Ludwig stated the easement would be enforceable as a private matter between property owners. If one-half of the alley was conveyed to each adjoining owner, the owners would have to work together to construct the driveway. The owner of 1003 Scott Avenue has expressed concern about the cost of providing a separate drive approach for their property.

John “Jack” Hilmes asked for the customary width for a residential driveway.

Mike Simonson stated it would be more than 8 feet.

Mike Ludwig stated the minimum is typically 9 feet but most are 10 feet or more.

Greg Wattier stated he thinks it would be best not to do an easement and make it clear that both parties have the option to buy half.

Mike Ludwig stated they need an easement regardless because access must be maintained to the Polk County parcel.

Greg Wattier asked if the easement would come from Scott or Shaw Avenue?

Mike Ludwig stated they recommend it comes from Scott based on the current grade, vegetation and fencing.

David Courard-Hauri stated he’s nervous about vacating an alley when people that use it are opposed.

Will Page stated he was opposed to vacation this public right of way as well.

John “Jack” Hilmes stated that’s what the easement is for.
Emily Webb asked why it can’t remain public access.

Mike Ludwig stated Council initiated the vacation and public access would be provided via an easement.

Greg Jones asked what the use is for the Polk County Property.

Mike Ludwig stated from the aerial it appears to be vacant. He was not aware of any historical use of the property.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Mike Simonson made a motion to deny the council initiated request to vacate the alley. However, if Council decides to vacate the alley right-of-way, the vacation should be subject to a 16-foot wide access easement to provide vehicular access from the Scott Avenue to 1003 Scott Avenue, 1013 Scott Avenue and to the Polk County parcel.

THE VOTE: 9-2 (John “Jack” Hilmes and Greg Jones opposed)

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Item 2

Request from Archway Development Group, LLC (owner) represented by Michael Donlin (officer) for review and approval of a Site Plan “Bartender’s Handshake” under design guidelines in “NPC” Districts for property located at 3619 Ingersoll Avenue to allow renovation of a 936-square foot commercial tenant bay. 

(10-2019-7.107)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The subject property contains a 3,894-square foot, multitenant building. The proposed Site Plan would allow the renovation of the eastern 18-foot by 52-foot (936 square feet) for a tavern use.

2. Size of Site: 6,125 square feet (0.14 acres).

3. Existing Zoning (site): "NPC" Neighborhood Pedestrian Commercial District and "FSO" Freestanding Sign Overlay.

4. Existing Land Use (site): A one-story, multitenant commercial building.
5. **Adjacent Land Use and Zoning:**

- **North** – “NPC”; Uses are commercial.
- **South** – “NPC”; Uses are multiple-family residential.
- **East** – “NPC”; Uses are a mix of office and commercial buildings.
- **West** – “NPC”; Use is a multiple-family residential building.

6. **General Neighborhood/Area Land Uses:** The area contains a mix of multiple-family residences and commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the North of Grand Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on April 12, 2019. A Final Agenda was mailed to the neighborhood association on April 26, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on April 22, 2019 (10 days prior) 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. The North of Grand Neighborhood Association notices were mailed to Peter Tubbs, 643 39th Street, Des Moines, IA 50312.

8. **Zoning History:** On March 27, 2019, by Docket Number ZON2019-00032, the Zoning Board of Adjustment granted a Conditional Use Permit to allow an 18-foot by 52-foot (936 square feet) tenant space within the subject building to be occupied by a tavern selling alcoholic liquor, wine, and/or beer. The Board’s approval was subject to the following conditions:

   a. Any tavern shall be limited to 936 square feet of area within the existing building.

   b. Any business selling alcoholic liquor, wine, and/or beer shall operate in accordance with the necessary permits obtained through the Office of the City Clerk as approved by the City Council.

   c. Any business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control.

   d. The business shall not have a patio for outdoor service unless the Zoning Board of Adjustment amends the Conditional Use Permit to allow for such.

   e. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
f. The business shall institute a strict no loitering policy, conspicuously post
one or more "No Loitering" signs, and cooperate with police in addressing
any loitering on the premises.

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

h. Any renovation on the site shall be in compliance with all applicable building
and fire codes, with issuance of all necessary permits by the Permit and
Development Center

i. If the Zoning Enforcement Officer determines at any time that the operation
of such a business becomes a nuisance, exhibits a pattern of violating the
conditions set forth in the Conditional Use Permit, or violates the
requirements of City Code Section 134-954(c), the Zoning Enforcement
Officer may apply to the Board to reconsider the issuance of the Conditional
Use Permit.

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

10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter
18B of the Iowa Code, in acting upon any Site Plan application for property located
within an “NPC” Neighborhood Pedestrian Commercial District, the Plan and Zoning
Commission shall apply the design standards in Section 82-213 of this article (the
standards for all Site Plans) in consideration of the criteria set forth in Chapter 18B
of the Iowa Code and the additional standards listed below. They were developed
for the purpose of preserving the community character of the commercial corridor
within the district. The design guidelines express the predominant character giving
features along the commercial corridor. The Commission may approve a Site Plan
that does not comply with the design guidelines if it finds the overall development is
in harmony with the commercial corridor, that the failure to comply with the design
guidelines does not negatively impact the character of surrounding properties, and
that the failure to comply with the design guidelines is due to the following:

1. An unusual lot shape, size, topography or double frontage. A lot over one acre
in size shall always be considered to be of unusual size;

2. A need to facilitate a smooth transition between existing developments in the
vicinity;

3. A need to accommodate existing development;

4. A need to preserve an existing building; or

5. A use with unique design requirements.
II. **ADDITIONAL APPLICABLE INFORMATION**

1. **NPC Design Guidelines**: The following design guidelines are applicable to review of any Site Plan within an "NPC" district.

   A) Buildings should frame the street and maintain a minimal setback from the street.

   *The existing building is set at the front property line along Ingersoll Avenue and complies with this standard.*

   B) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.

   *Staff is not aware of any proposed changes to the exterior of the building. The building contains storefront windows and doors that appear to comply with minimum standard.*

   C) The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.

   *The building has four tenant spaces with each having a front door that faces Ingersoll Avenue.*

   D) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.

   *The existing building is sided with brick. Staff is not aware of any proposed changes to the exterior of the building.*

   E) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.

   *The building has 71 feet of frontage along Ingersoll Avenue and is divided into four tenant spaces.*

   F) Building frontage should occupy at least 50 percent of the primary street frontage.

   *The existing building occupies 98.6% (71 feet) of the 72 feet of frontage the property has along Ingersoll Avenue.*

   G) Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:
1. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).

2. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.

3. Parking should not use the front yard but should be concentrated along the side and in back of the building in the predominant pattern of character defining buildings.

4. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring non-duplication of parking. The shared parking must be within 300 feet of the business or dwelling.

5. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved Site Plan.

6. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.

The proposal does not trigger compliance with current parking standards as up to 50% of a multi-tenant building can be occupied by a restaurant or tavern use before the minimum parking ratios for those uses must be provided. Section 134-1377 of the Zoning Ordinance requires 1 off-street parking space per 150 square feet of tavern use and 1 off-street parking space per 400 square feet of retail/office space.

7. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.

The submitted Site Plan identifies the location and diameter of existing trees. Tree species and proposed planting information was not provided. The provision of Ingersoll Avenue Streetscape improvements is a requirement that has been applied to Site Plan approval for multiple projects along the corridor. Staff understands that the applicant’s design team is preparing a revised Site Plan that will include streetscape improvements. Staff will work with the applicant to refine the design as needed. Staff recommends approval subject to the conditions listed in Section III of this report.

The applicant would be responsible for 100% of the cost to install the improvements. However, the applicant may be able to utilize the Ingersoll-Grand Beautification Grant Program to assist with some of the costs.
H) The following bulk regulations should be observed:

1. Minimum lot area Mixed-use project, 10,000 square feet, No minimum requirement for permitted nonresidential uses.
2. Minimum lot area per dwelling unit multiple dwellings, 2,000 square feet.
3. Front yard: minimum of zero feet.
4. Side yards: minimum of zero feet.
5. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
6. Height: minimum of 15 feet, maximum of 45 feet.
7. Number of stories:
   - Residential uses, a maximum of four stories.
   - All other permitted uses, a maximum of two stories.

   *The submitted design complies with these guidelines.*

8. Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.

   *The submitted building elevations include a new free-standing sign in the general location of the existing monument sign. Freestanding signage is required to comply with the Freestanding Sign Overlay District.*

9. Any extension of parking into an adjoining residential district shall support the intent of the NPC neighborhood pedestrian commercial district and conform with the guidelines in this section.

   *This criterion is not applicable as the applicant is not proposing to utilize parking located on a property that is residentially zoned.*

### III. STAFF RECOMMENDATION

Staff recommends approval of the submitted Site Plan, subject to the following conditions:

1. Compliance with all administrative comments of the Permit and Development Center.
2. Provision of the Ingersoll Avenue Streetscape improvements along the frontage of the property as approved by the Planning Administrator.
3. Review and approval of the finalized landscaping plan by the Planning Administrator.
4. Any signage shall comply with the Freestanding Sign Overlay District.
5. All utility meters, transformers, ground-mounted equipment, and other utilities shall be placed along the façades of the building not facing the street.
6. All utility and services lines to the building shall be located underground.

SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #2 has requested a continuance to the May 16, 2019 Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding the item.

COMMISSION ACTION:

John “Jack” Hilmes made a motion to approve the continuance of item #2 to the May 16, 2019 Plan and Zoning Commission meeting.

THE VOTE: 11-0

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Committee and Director’s Reports:

Mike Ludwig discussed tentative schedule for the Zoning Ordinance Work Shops with the Plan and Zoning Commission.

Meeting adjourned at 6:41