
ABSENT: Francis Boggus, Steve Wallace, Lisa Howard and Greg Wattier.

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

Greg Jones made a motion to approve the September 5, 2019 Plan and Zoning Commission meeting minutes. Motion Carried 8-0-2 (Dory Briles and Jann Freed abstained as they were not present for the September 5, 2019 meeting).

Jacqueline Easley noted that the applicant for item #5 has agreed to the staff recommendations. She asked if any members of the audience or the Commission requested to speak regarding moving the item to the consent agenda. None were present or requested to speak.

Dory Briles made a motion to move item #5 to the consent agenda. Motion Carried 10-0.

(Carolyn Jenison arrived at 6:05 PM)

Jacqueline Easley asked if any members of the audience or the Commission requested to speak regarding consent agenda items #1, #2, #3 or #4. A member of the audience requested item #2 be removed from the consent agenda.

Emily Webb made a motion to approve Consent Agenda Items #1, #3, #4 and #5 per the recommendations in the staff reports. Motion Carried 11-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request to vacate an irregular-shaped segment of 7th Street south of Indiana Avenue to allow it to be assembled with existing adjoining property located at 1233 7th Street. (11-2019-1.23)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The City has requested vacation of a triangular-shaped portion of 7th Street Right-Of-Way (ROW). This City has been working with the River Bend Association, Anawim Housing, C-Fresh Market and Des Moines Area Community College (DMACC) to help reduce loitering in the area. Anawim has agreed to take title to the property and to combine it with the adjoining two-family dwelling property at 1233 7th Street. It is proposed that a public pedestrian easement would be retained over the diagonal portion of the sidewalk. However, the north/south sidewalk would be eliminated and the property would be fenced in
with the Anawim property.

2. **Size of Site:** 1,249 square feet.

3. **Existing Zoning (site):** “R-3” Multiple-Family Residential District, Top Value “PUD” Planned Unit Development, “GGP” Gambling Games Prohibition Overlay District and “FSO” Freestanding Sign Overlay District.

4. **Existing Land Use (site):** ROW with public sidewalks.

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

   - **North** – “R1-60”; Uses are low density residential dwellings.
   - **South** – Top Value “PUD”; Use is off-street parking for the C-Fresh Market, DMMAC and McDonald’s commercial center.
   - **East** – “R-3”; Use is a two-family dwelling.
   - **West** – Top Value “PUD”; Use is off-street parking for the C-Fresh Market, DMMAC and McDonald’s commercial center.

6. **General Neighborhood/Area Land Uses:** The ROW is in a transition area between the commercial center to the south and residential neighborhood to the north.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the River Bend Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of Preliminary Agenda on August 30, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on September 9, 2019 (10 days prior to the hearing) to the River Bend Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested Right-of-Way.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The River Bend Association notices were mailed to Jon Royal, 1830 8th Street, Des Moines, IA 50314.

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

9. **PlanDSM Land Use Plan Designation:** Neighborhood Mixed Use and Low-Medium Density Residential.

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

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: There is a 6-inch Des Moines Water Works water main in the center of the ROW that serves properties north and south. The ROW shall have an easement for this and any other public utilities that may be in place.

2. Streets/Sidewalk: To preserve the intended continued public use of the diagonal sidewalk within the ROW, a public pedestrian easement shall be reserved for that portion.

III. STAFF RECOMMENDATION

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

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant’s expense.

2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.

3. Any vacated Right-Of-Way shall be combined into one parcel with the property located at 1233 7th Street currently owned by Anawim Housing.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant’s expense.

2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.

3. Any vacated Right-Of-Way shall be combined into one parcel with the property located at 1233 7th Street currently owned by Anawim Housing.

THE VOTE: 11-0
Item 3

Request from Greater Iowa Credit Union (owner) represented by Scott Zahnle (officer) for the property located at 2944 Des Moines Street:

A) Vacation of the north/south alley segment between East 29th Street and East 30th Street from Des Moines Street to the east/west alley. (11-2019-1.21)

B) Determination as to whether the proposed rezoning is in conformance with PlanDSM Creating Our Tomorrow.

C) Amend the PlanDSM Creating Our Tomorrow to revise existing Future Land Use designation from Low Density Residential to Community Mixed Use. (21-2019-4.18)

D) Rezone property from “R1-60” One-Family Low-Density Residential District to “C-2” General Retail and Highway-Oriented Commercial District to allow expansion of the existing branch financial services site with an addition to the existing building and additional off-street parking. (ZON2019-00166)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The rezoning would allow the expansion of the existing branch financial institution, Greater Iowa Credit Union, onto property the applicant has acquired to the west and demolished the existing dwelling. The expansion would include additional off-street parking, an addition to the building and a drive-up canopy area. To assemble the property, the applicant is also requesting to vacated the existing north/south alley Right-Of-Way (ROW) between the existing site and property requested for rezoning.

2. Size of Site: Property requested for rezoning is 7,500 square feet area. The requested ROW is 2,100 square feet in area. The current financial institution site is 20,400 square feet (0.45 acres).

3. Existing Zoning (site): “R1-60” One-Family Low-Density Residential District and “FSO” Freestanding Signs Overlay District.

4. Existing Land Use (site): The subject property is vacant from the recent demolition of a single-family dwelling. The alley ROW was previously improved with asphalt paving as part of the existing financial institution site.

5. Adjacent Land Use and Zoning:
North – “R1-60”, Uses are single-family dwellings.

South – “R1-60”, Uses are single-family dwellings.

East – “C-2”, Use is Greater Iowa Credit Union branch drive-up financial institution.

West – “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located just west of the East 30th Street commercial corridor which separates the residential Fairground Neighborhood to the west and the Iowa State Fairground to the east.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Fairground Neighborhood and within 250 feet of the Valley High Manor Neighborhood. The neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on August 30, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on August 30, 2019 (20 days prior to the hearing) and September 9, 2019 (10 days prior to the hearing), to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 13, 2016.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Fairground Neighborhood Association mailings were sent to Sharon Cooper, 2838 Logan Avenue, Des Moines, IA 50317. The Valley High Manor Neighborhood mailings were sent to Harlan Donaldson, 4143 Knob Hill Drive, Des Moines, IA 50317.

The applicant conducted a neighborhood meeting on September 10, 2019 and will be available to provide a summary at the public hearing.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential. The existing site is Community Mixed Use.

10. **Applicable Regulations:** 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, and taking into consideration the criteria set forth in Chapter 18B 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 Plan Land Use Plan Designation: The proposed rezoning would require the Future Land Use Map to be amended to the “Community Mixed Use” designation. Plan DSM describes this designation as follows:

*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.*

Staff believes that the minimal extension of this designation from the existing site to the subject property is appropriate so long as the site redevelopment is in accordance with current Site Plan regulations and policies designed to protect adjacent residential areas.

2. Utilities: There are no public utilities identified within the subject property of the rezoning or the requested ROW.

3. Site Plan Requirements: Any redevelopment of the property must be in compliance with the City’s Site Plan regulations and policies, including those regarding storm water management; off-street parking grading and soil erosion protection; tree removal and mitigation; landscaping and buffering, pavement design; and traffic and fire access.

4. Landscaping & Buffering: Any development of the site would require landscaping in accordance with the City’s Landscape Standards. These standards generally include open space, bufferyard, and parking lot plantings. Staff notes that any future Site Plan would be required to provide a 7-foot landscaped paving setback along the front property line a 5-foot perimeter lot landscape setback along the north alley, and a 10-foot bufferyard setback to the west.

Future development of the site would also be subject to the City’s Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

5. Drainage/Grading: Any additional development of the site must comply with the City’s Stormwater Management requirements to the satisfaction of the City’s Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.

6. Access or Parking: The site has an existing access drive to East 30th Street and drives to the north/south alley requested for vacation. With the elimination of the alley there would no longer be access to the adjoining east/west alley from the property. The access to East 30th Street would be maintained and a new access to Des Moines Street would be provided in lieu of the eliminated alley. Des Moines...
Street is a historic brick street and any drive new approach will be required to be sensitive and integrate to the brick street without damage.

7. **Building and Fire Codes:** Any future additions to the existing site and structure must be in accordance with all Building and Fire Codes, with issuance of all necessary permits from the City’s Permit & Development Center.

III. **STAFF RECOMMENDATION**

Part A) Staff recommends approval of the requested vacation of the north/south alley.

Part B) Staff recommends that the Commission find the requested rezoning not in conformance with the future land use designation of Low Density Residential in PlanDSM Creating Our Tomorrow.

Part C) Staff recommends approval of an amendment to the PlanDSM Creating Our Tomorrow future land use map from Low Density Residential to Community Mixed Use.

Part D) Staff recommends approval of the requested rezoning to “C-2” General Retail and Highway Oriented Commercial District subject to the following conditions:

1. The following uses of the property permitted in the “C-2” District shall be prohibited:
   
   a) Adult Business
   b) Businesses Selling Liquor, Wine or Beer
   c) Communication Towers and Antennas
   d) Delayed Deposit Services
   e) Off-Premise Advertising Signs
   f) Pawnbrokers
   g) Taverns and Night Clubs
   h) Vehicle Display Lots

2. Any redevelopment of the property shall be in conformance with all Building Codes and Site Plan Regulations with all necessary permits issued by the Permit and Development Center.

**SUMMARY OF DISCUSSION**

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

**COMMISSION ACTION:**

Emily Webb made a motion for approval of Part A) approval of the requested vacation of the north/south alley, APPROVAL of Part B) the Commission find the requested rezoning not in conformance with the future land use designation of Low Density Residential in PlanDSM Creating Our Tomorrow, Part C) APPROVAL of an amendment to the PlanDSM Creating Our Tomorrow future land use map from Low
Density Residential to Community Mixed Use and Part D) **APPROVAL** of the requested rezoning to “C-2” General Retail and Highway Oriented Commercial District subject to the following conditions:

1. The following uses of the property permitted in the “C-2” District shall be prohibited:

   a) Adult Business  
   b) Businesses Selling Liquor, Wine or Beer  
   c) Communication Towers and Antennas  
   d) Delayed Deposit Services  
   e) Off-Premise Advertising Signs  
   f) Pawnbrokers  
   g) Taverns and Night Clubs  
   h) Vehicle Display Lots

2. Any redevelopment of the property shall be in conformance with all Building Codes and Site Plan Regulations with all necessary permits issued by the Permit and Development Center.

**THE VOTE:** 11-0

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Item 4

Request from Meyer, LLC (owner) represented by David Silverstein (officer) for the property located in the vicinity of 650 Southeast 30th Street:

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

B) Rezone property from Limited “M-1” Light Industrial District to “M-2” Heavy Industrial District to allow extension of scrap yard under development on property to the north. (ZON2019-00168)

**STAFF REPORT TO THE PLANNING COMMISSION**

I. **GENERAL INFORMATION**

1. **Purpose of Request:** The proposed rezoning would allow a junk/salvage yard use, which is currently being developed on the parcel adjacent to the north, to expand an additional 50 feet to its south. The application indicates that the expansion area would be used for outdoor storage, which is being displaced by stormwater basin on the northern portion of the site.

2. **Size of Site:** 50 feet by 690 feet (34,500 square feet).
3. **Existing Zoning (site):** Limited “M-1” Light Industrial District and “FSO” Freestanding Sign Overlay District.

4. **Existing Land Use (site):** The 50-foot wide strip of land is undeveloped.

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

   - **North** – “M-2”, Use is a junk/salvage yard that is being developed.
   - **South** - “M-1”, Use is an office and warehouse use.
   - **East** – “C-2”, Uses are vacant land, a vehicle storage yard and vehicle repair shop.
   - **West** – “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the west side of Southeast 30th Street in between East Martin Luther King, Jr. Parkway to the south and Scott Avenue to the north. The surrounding properties mostly contain industrial uses, with a low-density residential area to the west.

7. **Applicable Recognized Neighborhood(s):** The subject property is not located within a recognized neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on August 30, 2019 and a final agenda on September 13, 2019. All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. Additionally, separate notifications of the hearing for this specific item were mailed on August 30, 2019 (20 days prior to the hearing) and September 9, 2019 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   The applicant has scheduled their neighborhood meeting for September 16, 2019. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

8. **Relevant Zoning History:** The subject property and the parcel to the south were rezoned to Limited “M-1” District on August 28, 2017, by Ordinance 15,607. This ordinance also rezoned the property to the north at “M-1” Heavy Industrial District. The rezoning was subject to the following conditions that were placed on both the “M-1” and “M-2” Districts:

   **(1)** The following uses of the property shall be prohibited:
   a. Adult entertainment businesses.
   b. Taverns or nightclubs.
   c. Liquor stores.
   d. Off-premises advertising signs.
   e. Pawn brokers.
   f. Delayed deposit services.
(2) Any buildings constructed along the public street sides of the Property should meet the following requirements:
   a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
   b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
   c. Any façade oriented toward a public street shall have a minimum 20% window and door openings on the first level.
   d. Any overhead doors shall not be oriented toward a public street.

(3) Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.

(4) Any Site Plan for the Property shall comply with the City’s Landscaping Standards as applicable in the “C-2” General Retail and Highway-Oriented Commercial District.

9. **PlanDSM Future Land Use Plan Designation:** Industrial.

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. **“M-2” Conditional Use Permits:** The proposed salvage yard use would require a Conditional Use Permit from the Zoning Board of Adjustment. Any future request for such would be reviewed against the following criteria:
   a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
   b. Such use shall not impair an adequate supply of light and air to surrounding property;
   c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
   d. Such use shall not diminish or impair established property values in adjoining or surrounding property;
   e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;
f. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.

g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.

h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.

i. The dismantling or repair of vehicles shall occur only upon an impermeable surface with adequate provision for the collection and disposal of fluids and wastes.

j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.

k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

2. Permit and Development Center Comments: Any future redevelopment of the property would require Site Plan review by the City’s Permit and Development Center. It is anticipated that the Site Plan for the salvage yard use to the north would be revised to include the expansion area.

3. Drainage/Grading: Stormwater management improvements would be required with site development over 10,000 square feet and a Storm Water Pollution Protection Plans (SWPPP) approval by Iowa DNR will be required with site redevelopment over an acre in area.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the requested rezoning is in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as “Industrial”.

Part B) Staff recommends approval of the requested rezoning of the property from “M-1” Light Industrial District to “M-2” Heavy Industrial District, subject to the following conditions:

1. The following uses of the property shall be prohibited:
a. Adult entertainment businesses.
b. Taverns or nightclubs.
c. Liquor stores.
d. Off-premises advertising signs.
e. Pawn brokers.
f. Delayed deposit services.

2. Any buildings constructed along the public street sides of the site should meet the following requirements:
   a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
   b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
   c. Any façade oriented toward a public street shall have a minimum 20% window and door openings on the first level.
   d. Any overhead doors shall not be oriented toward a public street.

3. Any redevelopment of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.

4. Any Site Plan for the property shall comply with the City’s Landscaping Standards as applicable in the “C-2” General Retail and Highway-Oriented Commercial District.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) the Commission find the requested rezoning is in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as “Industrial” and Part B) APPROVAL of the requested rezoning of the property from “M-1” Light Industrial District to “M-2” Heavy Industrial District, subject to the following conditions:

1. The following uses of the property shall be prohibited:
   a. Adult entertainment businesses.
   b. Taverns or nightclubs.
   c. Liquor stores.
   d. Off-premises advertising signs.
   e. Pawn brokers.
   f. Delayed deposit services.
2. Any buildings constructed along the public street sides of the site should meet the following requirements:

   a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
   b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
   c. Any façade oriented toward a public street shall have a minimum 20% window and door openings on the first level.
   d. Any overhead doors shall not be oriented toward a public street.

3. Any redevelopment of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.

4. Any Site Plan for the property shall comply with the City’s Landscaping Standards as applicable in the “C-2” General Retail and Highway-Oriented Commercial District.

THE VOTE: 11-0

Item 5

Request from Kum & Go, LC (owner) represented by Dan Garneau (officer) for the property located at 3104 University Avenue and 1134 31st Street. Additional property owned by Mirrel Property Investors, LLC:

A) Vacation of the dead-end east/west alley segment between University Avenue and Cottage Grove Avenue from 31st Street to a point that is 209 feet to the west. (11-2019-1.22)

B) Determination as to whether the proposed rezoning is in conformance with PlanDSM Creating Our Tomorrow.

C) Amend the PlanDSM Creating Our Tomorrow to revise existing Future Land Use designation from Neighborhood Mixed Use and Low-Medium Density Residential to Community Mixed Use. (21-2019-4.17)

D) Rezone property from “C-1” Neighborhood Retail Commercial District, “R-3” Multiple-Family Residential District, and “C-0” Commercial-Residential District to “NPC” Neighborhood Pedestrian Commercial District to allow redevelopment of existing fuel station and 8-unit apartment building for a new 5,661-square foot fueling station with retail sales of convenience items and with eight (8) fueling locations. (ZON2019-00165)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant has acquired the property to the south of their existing convenience store site under a separate entity. These two parcels are divided by alley right-of-way. The proposed action would allow the existing convenience store site to be cleared and combined with the alley and the southern parcel. The multi-family residential building on the southern lot would be demolished. The submitted site sketch indicates a new convenience store building would be constructed in the northeast corner at the intersection of University Avenue and 31st Street. The fuel pumps and canopy would be constructed to the west of the building.

2. Size of Site: 209 feet by 216 feet (45,144 square feet or 1.04 acres)

3. Existing Zoning (site): “C-1” Neighborhood Retail Commercial District, “R-3” Multiple-Family Residential District, “C-0” Commercial-Residential District and “FSO” Freestanding Sign Overlay District.

4. Existing Land Use (site): Convenience store with fuel sales and a multi-family residential building with 8 dwelling units.

5. Adjacent Land Use and Zoning:  
   North – “R-3”, Uses are multiple-family residential.  
   South - “R1-60”, Use is a single-family dwelling.  
   East – “C-1”, Use is a Walgreens pharmacy.  
   West – “R1-60”, Use is an office building.

6. General Neighborhood/Area Land Uses: The subject property is located on University Avenue commercial corridor west of the Drake University campus at the southwest corner of the intersection with 31st Street.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 30, 2019 and the Final Agendas on September 13, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on August 29, 2019 (20 days prior to the public hearing) and September 9, 2019 (10 days prior to the public hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association notices were mailed to
8. **Relevant Zoning History:** The applicant withdrew a rezoning request in June of 2006 that would have amended the subject property to a “C-2” District allowing for a substantial expansion of the site and reconstruction of the existing store and pump island.

On October 27, 2010, the Zoning Board of Adjustment granted a Variance to allow off-street parking within the front yard setback area of the “C-0” District within five feet of the front property line along University Avenue.

On November 18, 2010, the Plan and Zoning Commission conditionally approved a Site Plan under design guidelines for extension of parking and design guidelines for gas stations/convenience stores to allow for a 12-stall expansion of the existing paved parking area into the adjoining “C-0” zoned property to the west.


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 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.

    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 applicant is requesting that the future land use designation for the subject property be amended from “Low-Medium Density Residential” and “Neighborhood Mixed Use” to “Community Mixed Use”. Plan DSM describes these designations 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.

   - **Neighborhood Mixed Use:** Small scale mixed use development typically located at the intersection of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service oriented
development. Low-medium density residential may be included in mixed use development.

**Community Mixed Use:** Small- to medium-scale mixed-use development, located on high capacity transit corridor or at 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.

2. **NPC Design Guidelines:** Should the rezoning be approved, any site plan and building elevations submitted prior to the effective date of the proposed Zoning Ordinance would be subject to review and approval by the Plan and Zoning Commission in accordance with the following NPC District Design Guidelines:

   1. **Buildings should frame the street and maintain a minimal setback from the street.**
   2. **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.**
   3. **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.
   4. **Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.**
   5. **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.**
   6. **Building frontage should occupy at least 50 percent of the primary street frontage.**
   7. **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:**
      a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).
      b. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.
      c. 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.
      d. 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.
      e. **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.**
f. 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.

g. 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.

8. The following bulk regulations should be observed:
   a. Minimum lot area Mixed-use project, 10,000 square feet, No minimum requirement for permitted nonresidential uses.
   b. Minimum lot area per dwelling unit multiple dwellings, 2,000 square feet.
   c. Front yard: minimum of zero feet.
   d. Side yards: minimum of zero feet.
   e. 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.
   f. Height: minimum of 15 feet, maximum of 45 feet.
   g. Number of stories:
      • Residential uses, a maximum of four stories.
      • All other permitted uses, a maximum of two stories.
   h. Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.
   i. 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.

3. Site Plan Requirements: Any development would require compliance with all applicable site plan requirements. Applicable requirements include stormwater management, landscaping, and screening of adjoining residential properties. 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: No utilities have been identified that would be impacted by the proposed vacation. The applicant would be required to relocate any existing utilities as part of any development of the site.

5. Alley System: The subject east/west alley is a dead-end segment of right-of-way that provides access to a parking lot that serves the multiple-family building on the subject site. The proposed vacation would not impact the ability to provide adequate access to any adjoining properties.

6. Historic Preservation Ordinance: The proposed project includes the demolition of a brick apartment building (Mirell Flats) that was constructed in 1912. Demolition of this building is subject to review in accordance with Article IV of the Historic Preservation Ordinance.
The applicant has submitted a report summarizing the findings of their preservation consultant (Bear Creek Archeology, Inc) on the significance of the building and their effort to explore moving the building. The Mirell Flats building was identified as a Contributing Structure in a potential historic district eligible for the National Register of Historic Place in a 2011 survey (Architectural and Historical Survey of the Drake University Neighborhood). This report was prepared by James Jacobsen, History Pays on behalf of the Drake Neighborhood Association and the City of Des Moines. The report prepared by Bear Creek Archeology supports the finding of the 2011 survey.

The City’s Landmark Review Board (LRB) must be notified as part of the process of reviewing the proposed demolition of historic structures that are not located in a Local Historic District. A copy of this staff report and the support documentation will be provided to the LRB. The applicant has provided information on their efforts to identify a building mover and to get a sense of the cost to move the building. If no other alternatives are brought forward during the review process that staff deems as reasonable, the applicant will be required to prepare a salvage plan to be approved by the Community Development Director or designee before a demolition permit can be issued. The information prepared by Bear Creek Archeology, Inc. satisfies the documentation requirement of the demolition review process.

7. Liquor Sales: The sale of beer, wine and liquor must be conducted in conformance with Section 134-954 of the Zoning Ordinance. Gas station/convenience stores are allowed to sell beer and wine without a Conditional Use Permit so long as they are not within 150 feet of a church, school, public park or licensed child care facility. The sale of liquor at a gas station/convenience store requires a Conditional Use Permit from the Zoning Board of Adjustment (BOA) and has a separation requirement of 500 feet.

STAFF RECOMMENDATION

Part A) Staff recommends approval of the requested vacation subject to reservation of easements for all public utilities in place until such time they are relocated or abandoned.

Part B) Staff recommends that the Commission find the requested rezoning to “NPC” District is not in conformance with the PlanDSM: Creating Our Tomorrow land use plan.

Part C) Staff recommends that the Future Land Use designation for PlanDSM Creating Our Tomorrow be revised from Neighborhood Mixed Use and Low-Medium Density Residential to Community Mixed Use.

Part D) Staff recommends approval of the requested rezoning to the “NPC” District subject to the site being developed in substantial conformance with the submitted rezoning sketch.
SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #5 has agreed to the staff recommendations. She asked if any members of the audience or the Commission requested to speak regarding moving the item to the consent agenda. None were present or requested to speak.

Dory Briles made a motion to move item #5 to the consent agenda. Motion Carried 10-0.

COMMISSION ACTION:

Emily Webb made a motion for approval of Part A) approval of the requested vacation subject to reservation of easements for all public utilities in place until such time they are relocated or abandoned, APPROVAL of Part B) the Commission find the requested rezoning to “NPC” District is not in conformance with the PlanDSM: Creating Our Tomorrow land use plan, APPROVAL of Part C) the Future Land Use designation for PlanDSM Creating Our Tomorrow be revised from Neighborhood Mixed Use and Low-Medium Density Residential to Community Mixed Use and Part D) APPROVAL of the requested rezoning to the “NPC” District subject to the site being developed in substantial conformance with the submitted rezoning sketch.

THE VOTE: 11-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 2

Request from Dan Barry (owner), for vacation of an irregular Right-Of-Way parcel to allow it to be assembled with existing adjoining property located at 6024 Ronwood Drive.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is requesting the vacation of a portion of Right-Of-Way (ROW) to combine with an existing parcel to the east, which is currently on the Public Nuisance list. The applicant intends to improve the adjoining property and increase the size of the rear yard and install fencing.

2. Size of Site: Approximately 6,900 square feet.
3. **Existing Zoning (site):** “R1-80” One-Family Residential District, “GGP” Gambling Games Prohibition Overlay District and “FSO” Freestanding Signs Overlay District.

4. **Existing Land Use (site):** ROW with a developed public recreational trail.

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

   - **North** – “R1-80”, Use is single-family residential.
   - **South** – “R1-80”; Use is single-family residential.
   - **East** – “R1-80”, Use is single-family residential.
   - **West** – “R1-80”; Uses are single-family residential and ROW with a public recreational trail.

6. **General Neighborhood/Area Land Uses:** The subject ROW segment is located between Ronwood Drive and North Waterbury Road and east of the existing trail. The surrounding area consists primarily of single-family dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Waterbury Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 30, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on September 9, 2019 (10 days prior to the hearing) to the neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject right-of-way. A final agenda was mailed on September 13, 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 Waterbury Neighborhood notices were mailed to Martha Miller Johnson, 525 Country Club Boulevard, Des Moines, IA 50312.

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

9. **PlanDSM Land Use Plan Designation:** Low 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. **Street System/Access:** The requested vacation is for ROW that is adjacent to an existing public multi-use recreation trail. Ronwood Drive dead-ends adjacent to the
trail providing a public access. The requested vacation would not impact public pedestrian access to the trail.

2. **Utilities**: While not directly within the requested portion, the Des Moines Water Works has a 24-inch watermain in close proximity adjacent to the existing ROW and has requested that an easement be reserved across any vacated portion of the ROW for any necessary utility access. While no other utilities have been identified within the ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

3. **Floodplain**: The western portion of the ROW is within the 100-year floodplain as identified by Federal Insurance Rate Mapping. A conservation easement should be reserved on the property indicating that any development of structures or fencing shall comply with the City’s Floodplain Development Regulations. These are currently outlined in Chapter 50 of the City Code.

### III. STAFF RECOMMENDATION

Staff recommends approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining Right-Of-Way until such time that these utilities are abandoned or are relocated at the applicant’s expense.

2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City’s Floodplain Development Regulations.

3. All contiguous parcels owned by the applicant shall be combined into one parcel recorded with Polk County.

4. Any conveyance of the requested Right-Of-Way shall not occur until any Public Nuisance status has been abated to the satisfaction of the Zoning Enforcement Officer.

### SUMMARY OF DISCUSSION

**Jason Van Essen** presented staff report and recommendations.

**John “Jack” Hilmes** stated he is familiar with this area and the condition of the subject property.

**Dan Barry** stated he is the owner of the property and the owner of Design Build Incorporated which has done the planning for this property. His intentions are to fix up the property and move his family there. When he initially requested to purchase this
land, he wasn’t interested in the piece Mr. Pildis is interested in so he has no problem with him acquiring that portion behind his property.

John “Jack” Hilmes asked if he recently acquired the house on the property.

Dan Barry stated he has owned it for a few years and it has sat vacant since he purchased it at an auction.

John “Jack” Hilmes stated this property has fallen in serious disrepair.

Dan Barry stated he disagrees with the property being in serious disrepair and intends to have it all cleaned up. The City of Des Moines has lifted the public nuisance from the property while he works on plans for an addition to the house.

John “Jack” Hilmes asked if there are trees in the section he wants to purchase?

Dan Barry stated yes, especially in the portion that isn't desirable for him. He intends to fence in the yard so people cannot access this part of his property as they do now.

CHAIRPERSON OPENED THE PUBLIC HEARING

Esaehr Pildis 6031 N. Waterbury Rd. stated he has no objection to Mr. Barry acquiring the land adjoining his property but would object to him acquiring the land behind 6031 N. Waterbury Rd. He will follow all the requirements of the City and file all necessary paperwork to acquire that real estate.

Jason Van Essen stated Mr. Pildis is aware he will need to submit an application for the additional property he would like to acquire and the City Real Estate division will work with them both on the sale of the land in questions tonight.

CHAIRPERSON CLOSED THE PUBLIC HEARING

John “Jack” Hilmes asked if it would be better to continue this item if Mr. Pildis wants to become an applicant for the portion of land behind his property.

Jason Van Essen stated Mr. Pildis is interested in another portion behind his property that would require City staff to notices the updated boundary.

Mike Ludwig stated Engineering may not want the additional portion of the property vacated as it sits close to the trail.

John “Jack” Hilmes stated he doesn’t like to see parcels of property sold to private ownership that resemble park like settings.

Greg Jones stated he agrees with Jack and having more space beside the trail isn’t a bad thing. If the City owned a fence on the other side of the right-of-way line it might not have been an issue.
Will Page asked if they approve staff recommendations, will the sale issues be resolved at a later time.

Jason Van Essen stated the sale of the land will be negotiation through the City’s Real Estate division.

Mile Ludwig stated the vacation and the sale are subject to a public hearing with City Council.

Jason Van Essen stated the other part would be dependent on if engineering is willing to give up more land.

Will Page asked if that was agreeable for Mr. Pilis.

Glenna Frank stated the commission cannot agree to whom the land will be sold to or if it will be sold. The commission is recommending whether the land is needed for public right-of-way.

John “Jack” Hilmes stated he is under the impression that Mr. Pildis would need to be an applicant or co-applicant to have his issues resolved.

Glenna Frank stated the Commission is only making a decision on if this land is needed for public right-of-way. The Real Estate division will work with the applicant and Mr. Pildis on the sale of this land.

Mike Ludwig stated this discussion will be forwarded to City Council and our staff will also contact the Real Estate division to notify them that two parties are interested in purchasing portions of the property.

**COMMISSION ACTION:**

Jann Freed made a motion for approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining right-of-way, until such time that these utilities are abandoned or are relocated at the applicant’s expense.

2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City’s Floodplain Development Regulations.

3. All contiguous parcels owned by the applicant, and all contiguous parcels owned by any purchaser other than the applicant, shall be combined into one parcel recorded with Polk County.
4. Any conveyance of the requested right-of-way to the applicant shall not occur until any public nuisance status has been abated to the satisfaction of the Zoning Enforcement Officer.

THE VOTE: 11-0

Committee and Director’s Reports: Mike Ludwig stated the second reading for the proposed zoning code will take place Monday, September 23rd. The 3rd reading is tentatively set for October 14th with an anticipated effective date of December 15th. There will be a meeting with the City Manager at noon tomorrow and will need to know who is attending. Chungath, Howard, Hilmes, and Jones and Webb will attend.

Meeting adjourned at 6:40 pm.