
ABSENT: Jann Freed, John “Jack” Hilmes, Rocky Sposato, Emily Webb and Greg Wattier.

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

Dory Briles made a motion to approve the September 19, 2019 Plan and Zoning Commission meeting minutes. Motion Carried 7-0-3 (Francis Boggus, Steve Wallace and Lisa Howard abstained as they were not present for the September 19 meeting).

Jacqueline Easley noted that the applicant for item #2 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.

Francis Boggus made a motion to move item #2 to the consent agenda. Motion Carried 10-0.

Jacqueline Easley asked if any members of the audience or the Commission requested to speak regarding consent agenda items #1, #2. None were present or requested to speak.

Francis Boggus made a motion to approve Consent Agenda Items #1 and #2 per the recommendations in the staff reports. Motion Carried 10-0.

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

City initiated request to Amend the PlanDSM Creating Our Tomorrow Plan to adopt the Market District of the East Village Master Plan as an element.

(21-2019-4.19)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

Background: The PlanDSM – Creating Our Tomorrow Comprehensive Plan was adopted on April 26, 2016. PlanDSM specifically recognized the paramount linkage between land use, transportation, housing, economic development, public infrastructure and utilities, parks and recreation, and social equity to develop a sustainable community. Preparation of plans and programs to identify infill and redevelopment properties (Market District of the East Village) was identified as an intermediate action step in the Implementation Chapter. Focusing economic development efforts in strategic locations for continued vitality and growth was also
identified in the Goals and Policies of the Economic Development Chapter of PlanDSM. The goal of the Market District of the East Village Master Plan is to create a walkable urban neighborhood that will support and supplement the ongoing redevelopment activity in both Downtown Des Moines and the East Village. The Des Moines’ City Council provided funding for these action items as a result of the GuideDSM Strategic Plan process.

1. **State and Regional Planning Influences:** The City has participated in several State and regional planning efforts that serve as background to and provide general land use and economic development planning guidance for the future.

   **Iowa Smart Planning Legislation**

   The Iowa Smart Planning Act (Iowa Code Chapter 18B) was approved in 2010. The legislation articulated 10 Iowa Smart Planning Principles to be considered when any development decision is made and recommended core elements for inclusion in Comprehensive Plans. Land Use and Economic Development are two of the core elements on that list.

   **DART Forward 2035**

   DART Forward 2035 was initially adopted in 2011 and provided a long-range vision for what the Transit Authority and the transit system could become. Residents of Des Moines were active participants in the planning process which resulted in a new transit system that added service in growth areas; provided for faster travel with less wait time; offered an increased number of transfer points; and, provided additional crosstown service. Transit is a key element in planning for the future of Des Moines. The DART Forward 2035 document serves as the background for transit growth in the City. During 2016, DART provided a 5-year update to the Plan. This plan for investment in transit has resulted in:

   - A 9 percent increase in ridership from 2013 to 2015;
   - Opening of a new transit station in downtown Des Moines with launch of a redesigned route network;
   - Shorter wait times between trips;
   - Service later on weekdays and earlier and later on weekends to better align with retail hours; and
   - Additional or expanded routes to serve more places in the region.

   **The Tomorrow Plan**

   Coordinated by the Des Moines Area Metropolitan Planning Organization, The Tomorrow Plan was a three-year planning process that included 17 cities and four counties within the greater Des Moines area. This collaborative effort aligned economic, social and environmental issues to provide for the long-term health of the region. The Tomorrow Plan focuses around four overarching goals and includes initiatives for their implementation:
• Create a resilient regional economy;
• Improve the region’s environmental health and access to the outdoors;
• Further the health and well-being of all residents in the region; and,
• Increase regional cooperation and efficiency at all levels.

Mobilizing Tomorrow

Also coordinated by the Des Moines Area Metropolitan Planning Organization, The Mobilizing Tomorrow Plan is the Long-Range Transportation Plan vision and implementation follow-up to The Tomorrow Plan regional comprehensive plan. This Plan focuses around four overarching transportation goals for the region and includes an implementation:

• Enhance multimodal transportation options.
• Manage and optimize transportation infrastructure and services.
• Improve the region’s environmental health.
• Further the health, safety and well-being of all residents in the region.

PlanDSM - Creating Our Tomorrow

PlanDSM is the City of Des Moines’ Comprehensive Plan consists of a vision priorities and goals that will guide Des Moines into the future; goals and policies for eight different Plan elements (including Land Use and Economic Development); an implementation chapter describing how the Plan can be realized; and a Future Land Use Map.

Economic Development Goals from PlanDSM include:

• Foster economic prosperity and stability by retaining existing businesses and recruiting new businesses.
• Focus economic development efforts in strategic locations for continued vitality and growth.
• Recognize livability as a key aspect to economic development.
• Foster a sustainable economy.

GuideDSM – Des Moines Strategic Plan 2015-2020-2031

GuideDSM, the City of Des Moines’ Strategic Plan, consists of missions, vision priorities, and goals to address future needs and inform development of yearly budgets and capital improvements over a five fiscal year period.

Economic Development Goals from GuideDSM include:

• Involved community – residents and businesses.
• Thriving regional economy.
• Recognized leader in community sustainability.
2. **Project Funding:** In 2016, the City Council appropriated $452,747 in funding for completion of the *Market District of the East Village* Master Plan.

3. **Plan Process:** *Market District of the East Village* Master Plan (see attachment) was broken into phases emphasizing extensive public outreach to allow City residents to provide continuous community input into Plan development:
   - *Inventory and Analysis* phase involved staff and consultants gathering information to learn about the existing environment of the Market District.
   - *Market Assessment* phase involved a real estate market assessment and evaluating development potential.
   - *Visioning* phase involved specific key stakeholder interviews, a visioning session, and a three-day interactive design workshop.
   - *Development Program* phase involved creation of a development program for use during the three-day design workshop and comprised key findings, specific elements necessary to achieve objectives of the *Market District of the East Village* Master Plan.
   - *Master Plan* phase involved the three-day iterative Design Charrette to test and refine key framework elements and development concepts for the *Market District of the East Village* Master Plan.

4. **Plan Organization:** *Market District of the East Village* is organized into eight sections: Inventory and Analysis, Market Assessment, Visioning, Development Program, Master Plan, Framework Elements, Development Opportunities, and Design Guidelines.

   The section entitled Framework Elements investigates and identifies factors and guidelines that support the development of the Market District into a sustainable neighborhood including Mobility, Key Infrastructure, Park and Open Space System, Sustainability, and Urban Form.

5. **Plan Preparation:** *Market District of the East Village* has been prepared by Economic Development staff, Engineering staff, HDR, SBFriedman Co., Walker Consultants, and under the guidance of the *Market District of the East Village* Steering Committee.

   Members of the *Market District of the East Village* Steering Committee are as follows:

   - Lou Rizzuti, Artistic Iron Works
   - Hugh O’Hagan, Blackbird Investments
   - Kevin Nordmeyer, BNIM Architecture
   - Jake Christensen, Christensen Development
6. **Plan Adoption:** Pursuant to City Code Chapter 82, Article III of the City Code, adoption of the Comprehensive Plan or any substantial amendment thereof (i.e. Market District of the East Village), requires at least one public hearing with published notice. The adoption of the amendment requires affirmative vote by not less than two-thirds of the members of the Commission present at the time of the vote. After adoption of the plan or amendment by the Commission, a copy of the amendment, together with the report and recommendation of the Commission, shall be forwarded to the City Council, and the Council may approve the amendment. When the plan or any modification or amendment receives the approval of the Council, the plan shall constitute the official City plan. This consideration would adopt the Market District of the East Village Master Plan as an element of PlanDSM.

III. **STAFF RECOMMENDATION**

Staff recommends approval of an amendment to the PlanDSM - Creating Our Tomorrow Comprehensive Plan to adopt the Market District of the East Village Master Plan as an element.

**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:

Francis Boggus made a motion for approval of an amendment to the PlanDSM - Creating Our Tomorrow Comprehensive Plan to adopt the Market District of the East Village Master Plan as an element.

THE VOTE: 10-0

Item 2

Request from Newbury Development (purchaser) represented by Frank Levy (officer) for review and approval of a Site Plan “Connolly Lofts” under design guidelines for multiple-family dwellings and under design guidelines in “C-3B” Districts for property located at 401 Southeast 6th Street, to allow development of a 4-story, 57-unit multiple-family dwelling. The subject property is owned by the City of Des Moines.

(10-2020-7.30)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed Site Plan would allow the construction of a 4-story apartment building containing 57 dwelling units. As proposed it would include 49 surface parking spaces. This is a decrease of two units and 14 parking spaces from the previously approved Site Plan for the project.

2. Size of Site: 45,068 square feet (1.035 acres).


5. Adjacent Land Use and Zoning:

   North – “M-2”: Use is the Diamond Oil Company bulk distribution.

   South - “M-1”: Use is a garage for general motor vehicle repair.

   East – “M-1”: Use is vacant land.

   West - “M-1” & Limited “C-3B”: Uses are the Truman’s KC Pizza and Skol restaurants.
6. **General Neighborhood/Area Land Uses**: The subject site is located in the East Village, Market District subarea. The immediate area consists of a mix of vacant land and light industrial uses north of the East M.L King Jr. Parkway southeast connector.

7. **Applicable Recognized Neighborhood(s)**: The subject property is located in the Historic East Village Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on September 13, 2019. Additionally, separate notifications of the hearing for the Site Plan request were mailed on September 23, 2019 (10 days prior to the hearing) to the neighborhood association and respectively to the primary titleholder on file with the Polk County Assessor for every owner of property or condominium within 250 feet of the site for the Site Plan.

A Final Agenda was mailed to the neighborhoods on September 27, 2017. 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 Association mailings were sent to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History**: On October 6, 2014, the City Council rezoned the property to “C-3B” Central Business Mixed Use District with no conditions under Ordinance No. 15,320.

On December 1, 2016, the Plan & Zoning Commission approved a Site Plan “Connolly Lofts” on the subject property allowing for development of a 4-story, 58 unit multiple-family dwelling with 58 surface parking spaces subject to the following conditions:

- A) Compliance with all administrative review comments of the City’s Permit and Development Center.
- B) Review and approval of the finalized building elevations and materials by the Planning Administrator.
- C) All rooftop mechanical equipment shall be screened with material that is architecturally compatible with the building to the satisfaction of the Planning Administrator.
- D) All wall mounted mechanical grills shall be architecturally compatible with the building.
- E) All utility meters and other utilities shall be placed on side or rear facades that are internal to the site.
- F) All transformers and ground-mounted equipment shall be noted on the site plan in a location approved by the Planning Administrator.
G) All services lines to the building and all utility lines in the adjoining rights-of-way shall be located underground.

H) Compliance with Chapter 42, Article X of the City Code (Tree Removal and Mitigation Ordinance). Replacement trees for those affected within the East M.L. King Jr. streetscape area shall be of a minimum 3-inch caliper and of a species approved by the Municipal Arborist.

On February 22, 2017, The Zoning Board of Adjustment approved an Exception appeal for the maneuvering aisle width to be reduced to 22.76 feet for 90-degree angle parking. This was subject to compliance with all applicable Building Codes and Site Plan Policies with issuance of required permits by the Permit and Development Center.

On December 7, 2017, the Plan and Zoning Commission approved an amendment to the Site Plan “Connolly Lofts” to allow revision of the previously approved development of a 4-story multiple family dwelling with an additional unit (total of 59 residential units) and modify the building design and parking configuration. This was subject to the following conditions:

1. Compliance with all administrative review comments of the Permit and Development Center.

2. Compliance with all final review comments of the Urban Design Review Board.

3. Review and approval of the finalized building elevations and materials by the Planning Administrator.

4. All wall mounted mechanical grills shall be architecturally compatible with the building.

5. All utility meters and other utilities shall be placed on side or rear facades that are internal to the site not directed to the primary streets of East M.L. King, Jr. and Southeast 6th Street.

6. All transformers and ground-mounted equipment shall be noted on the site plan in a location approved by the Planning Administrator.

7. All services lines to the building and all utility lines in the adjoining rights-of-way shall be located underground.

8. Provision of required interior lot landscaping and additional landscaping around the shipping container shelter.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown Mixed Use.
10. **Applicable Regulations:** With consideration of the criteria set forth in Chapter 18B of the Iowa Code, in acting upon any Site Plan application for property located within the C-3B Central Business Mixed-Use District, the Plan and Zoning Commission shall apply the design regulations in section 82-213 of this article and the design guidelines in Section 82-214.7. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as of the time it became part of the C-3B Central Business Mixed-Use District. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the C-3B Central Business Mixed-Use District, then these guidelines shall apply only to the expansion of the building.

A) **Building Heights.** Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.

*The proposed apartment building would be four stories tall. The proposal complies with this guideline.*

B) **Riverfront setbacks:** Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a riverfront park (not part of the levee reconstruction) should front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative profile of a minimum 20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

*N/A.*

C) **Lighting:** All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

*The submitted Site Plan indicates use of a pedestrian scale cut-off fixture type for the on-site parking lot lighting. A note is included that “any new lighting shall be low glare cut-off type fixtures”. Existing lighting in the East M.L. King Jr. Parking Right-Of-Way is not proposed to be altered.*

D) **Residential building standards:** New residential buildings should also comply with the following guidelines:

1) Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).

2) At least one building entrance for the residential uses should directly access the street when located above street-level retail.
3) Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.

4) Buildings should have a maximum setback of 15 feet from the public right-of-way.

The submitted Site Plan partially complies with the intent of these guidelines. The proposed building has minimal setbacks to the primary streets. There would be primary entrances from the main level accessing towards Southeast 6th Street but not from East M.L. King Jr. Parkway, which are identified as the primary street frontages. Staff recommends that the developer provide the entrance toward East M.L. King Jr. Parkway at the eastern end of the building as was provided in the previously most recent approved Site Plan.

The proposed building would meet the minimum building frontage percentage on East M.L. King Jr. Parkway but not on the Southeast 6th Street frontage. The developer has provided a shelter made from a shipping container within the additional frontage area along Southeast 6th Street.

5) Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

A trash enclosure is proposed to be located in the parking lot east of the building at the southwest corner of the intersection of Southeast 7th Street and Raccoon Street. It would be constructed of masonry materials to match the building and proposed to have metal gates. A separate entrance is shown for pedestrians. The structure is large enough for a dedicated recycling container which is required in order to obtain a Rental Certificate.
from the City’s Neighborhood Inspection Division. Staff believes that the enclosure should not be located at the street intersections but rather nearer to the east side of the building.

E) Commercial building standards: New commercial buildings should also comply with the following guidelines:

1) Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
2) A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.
3) Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.
4) Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.
5) Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

N/A.

F) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick, or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.

A proposed trash enclosure would be located in the parking lot east of the building. It would be constructed of masonry materials to match the building and proposed with metal gates. A separate entrance is shown for pedestrians. The structure is large enough for a dedicated recycling container which is required in order to obtain a Rental Certificate from the City’s Neighborhood Inspection Division. Staff believes that the enclosure should not be located at the street intersection but rather near the east side of the building.
G) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards. 

See subparagraph 4 of Section II for landscaping information.

H) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

N/A.

With consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Plan and Zoning Commission reviews and approves site plans for multiple family dwellings, boarding houses or rooming-houses in accordance with the design standards in section 82-213 of the City Code. The decision to approve, approve subject to conditions, or disapprove a proposed site plan shall be based upon the conformance of the site plan with the following design standards.

A) Architectural character. New developments and alterations to existing development in or adjacent to existing developed areas shall be compatible with the existing architectural character of such areas by using a compatible design. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development. Brick and stone masonry shall be considered compatible with wood framing and other materials.

The apartment building would be four (4) stories tall. It would be constructed with a mix of masonry and cement panel siding on all facades, particularly on the east and west ends of the building. It differs from the previous approved design in that it does not provide stone sills and that the cement board siding is now proposed to be a lap-style product giving the appearance of natural wood. The balconies are proposed to be constructed of steel.

B) Building height and mass. Buildings shall be either similar in size and height, or if larger, shall be articulated, setback or subdivided into massing that is proportional to the mass and scale of other structures on the same block and adjoining blocks. Articulation may be achieved through variation of roof lines, setbacks, patterns of door and window placement, and the use of characteristic entry features. To the maximum extent feasible, the height, setback and width of new buildings and alterations to existing buildings should be similar to those of existing buildings on the same block. Taller buildings or portions of buildings should be located interior to the site. Buildings at the ends of blocks should be of similar height to buildings on the adjoining blocks.

The proposed apartment building would be four stories tall with some shed roof features over proposed projecting elements on the East M.L. King Jr Parkway
face. There are significant articulations on all sides of the building. There is a proposed community space from the second floor on top of the shipping container shelter on the Southeast 6th Street side. The shelter also helps bring up the appearance of the building height toward the street.

C) **Building orientation.** To the maximum extent feasible, primary facades and entries shall face the adjacent public street. A main entrance should face a connecting walkway with a direct pedestrian connection to the public street without requiring all pedestrians to walk through parking lots or across driveways.

The primary frontages for the site are Southeast 6th Street and East M.L. King Jr. Parkway. The building setbacks from these ROWs are minimal, tucking the building as close as possible to the intersection of those two streets. There are pedestrian links to both streets from the entrances. There is a primary entrance on the west oriented toward Southeast 6th Street. There is an east facing entrance proposed on the east side of the building that would have a sidewalk connection to East M.L. King Jr. Parkway. The previous approved Site Plan provided a direct connection of the primary entrance on the east to East M.L. King Jr. Parkway with the door oriented to the south. Staff recommends that the proposed Site Plan be revised to add this feature back to the building as previously approved.

D) **Garage access/location.** If the prominent character of garage access and/or location is located to the rear of the properties in the surrounding neighborhood, then new construction should be compatible with such character.

* N/A.

E) **Rooftop/second story additions.** A rooftop or second floor addition, including but not limited to stairs and emergency egress, should not overhang the front or sidewalls of the existing building.

* N/A.

F) **Emergency egress.** All stairs and means of emergency egress extending more than 15 feet above grade and visible from the adjoining street should be completely enclosed with materials compatible in color and texture with the balance of the building.

* All stairways and means of egress would be internal to the building.

G) **Parking.** Parking lots containing more than eight parking spaces should comply with the adopted landscape standards applicable to commercial development in the C-1 district.

* See subparagraph 4 of Section II for landscaping information.
With consideration of the criteria set forth in Chapter 18B of the Iowa Code, in acting upon any Site Plan application for development of property located within the Downtown Overlay District, the Community Development Director (or Plan and Zoning Commission if applicable) shall apply the regulations and design guidelines in Section 82-213 of the City Code, which are. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or when an existing building is cumulatively expanded by more than 50% of its gross floor area as of the time it became part of the downtown overlay district. If a building is cumulatively expanded by less than 50% of its gross floor area as of the time it became part of the downtown overlay district, then these guidelines shall apply only to the expansion of the building.

A) Projects should demonstrate understanding of the micro and macro context for the project by offering place specific solutions for materiality, massing, uses, fabric and climate that are consistent with the vision of the "What’s Next Downtown Plan". In most cases, corporate prototype architecture may not be an acceptable design.

_The apartment building would be four (4) stories tall. It would be constructed with a mix of masonry and cement board siding. Proposed balconies would be constructed entirely of steel. Within its context, it would be consistent with the What’s Next Downtown Plan._

B) Low impact development techniques should be utilized which implement site water quality control solutions, using materials which are locally available and creating projects which minimize energy consumption.

_The proposed stormwater management improvements include underground storage within the parking lot with water quality detention. The project would also be the redevelopment of a Brownfield site._

C) Connectivity between adjacent properties should be provided or demonstrated for both pedestrian and vehicular circulation.

_The proposed project would redevelop the entire block. Connectivity to adjacent properties would be through the public street and sidewalk system._

D) The incorporation of ‘soft (green) spaces’ on site is encouraged.

_There are common green spaces proposed both to the north and east of the proposed building._

E) Where feasible, projects should provide outdoor spaces for people gathering.

_A proposed second-story outdoor space above the shipping container shelter on the west end of the building would be provided for tenants._
F) If feasible, connections to adjoining bike paths or on-street bike facilities and on-site bike racks should be provided in close proximity to building entrances.

*Bike racks are proposed near the primary west entrance under the shipping container shelter.*

G) Building heights. Minimum height for all uses should be the lesser of 36 feet or three stories.

*The proposed apartment building would be four (4) stories tall. The proposal complies with this guideline.*

H) Bulk standards, building setbacks, orientation, frontage and residential access:

1. All buildings with river frontage should orient towards the river and have building entrances that are oriented to the river and primary street(s).

   *N/A.*

2. All buildings without river frontage should have entrances oriented toward primary street(s).

3. All buildings should have frontage on principal street(s) of not less than 70 percent of the lot.

   *The submitted Site Plan partially complies with the intent of these guidelines. Southeast 6th Street and East M.L. King Jr. Parkway are identified as the primary street frontages. There is a primary entrance from the main level accessing towards Southeast 6th Street. There is an eastern entrance with a pedestrian connection to East M.L. King, Jr. However, there is not an entrance oriented toward the public street as in the previously approved Site Plan. Staff recommends that the proposed Site Plan be revised to incorporate an entrance oriented toward East M.L. King, Jr. Parkway.*

   *The proposed building would meet the minimum building frontage percentage on East M.L. King Jr. Parkway but not on the Southeast 6th Street frontage.*

4. For commercial and mixed-use buildings, at least 70 percent of the building frontage should be within one foot of the property line.

   *N/A.*

5. At least one building entrance for residential uses should directly access the street when a residential use is located above street-level retail or commercial uses.

   *N/A.*
6. For residential buildings, a maximum setback of 15 feet from the public right-of-way is permitted unless superseded by bulk regulations of the underlying zoning district (i.e. R-HD Residential Historic District, R1-60 Low Density Residential District, etc.).

   The proposed building would have minimal setbacks along the two primary frontage streets of Southeast 6th Street and East M.L. King Jr. Parkway.

I) Storage of all materials and equipment should take place within completely enclosed buildings.

   No outdoor storage of materials and equipment is proposed.

J) All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick or masonry and steel gates which are compatible in design with the principal structure.

   A proposed trash enclosure would be located in the parking lot east of the building toward the intersection of Southeast 7th Street and Raccoon Street. It would be constructed of masonry materials to match the building and proposed with metal gates. A separate entrance is shown for pedestrians. The structure is large enough for a dedicated recycling container which is required in order to obtain a Rental Certificate from the City’s Neighborhood Inspection Division.

   Staff believes that the enclosure should not be located at the street but rather near the east side of the building.

K) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards for C-3 districts.

   See subparagraph 4 of Section II for landscaping information.

L) Access doors for any warehouse use and any loading docks should not front on any public street.

   N/A.

M) Gas stations/convenience stores should be limited to no more than six pumps and allow no more than 12 vehicles to be fueled at one time.

   N/A.
N) Gas station / convenience stores and canopies, drive-thru facilities for restaurants, banks, parking garages and other auto-dominant uses should not front or have vehicular access on or to a pedestrian corridor as designated in the downtown pedestrian corridor map on file in the office of the city clerk as approved by city council resolution.

N/A.

O) Existing curb cuts should be consolidated to the minimum number necessary and be located as directed by the city traffic engineer and community development director.

Staff believes the proposed number of curb cuts is the minimum number necessary to adequately serve the development. There is one drive approach on each of the non-primary frontage streets of Raccoon Street and Southeast 7th Street. These would serve a one-way circulation entering from Raccoon Street and exiting onto Southeast 7th Street.

P) Parcels proposed for development that are greater than two acres should be rezoned to a planned unit development (PUD) zoning classification.

The site measures 1.035 acres.

Q) Auto-dominant uses as described in guideline “N” above should be located in a mixed use commercial center and with buildings possessing a unified commercial design.

N/A.

R) Parking ramps should either include ground floor retail or commercial space, be designed for conversion to retail or commercial space, or have significant architectural detail.

N/A.

II. ADDITIONAL APPLICABLE INFORMATION

1. Rights-Of-Way (ROW): The City has assembled the site area to include portions of the surrounding ROW, including the undeveloped north south alley. Traffic and Transportation Engineering staff indicated a limitation in the amount of Raccoon Street which could be vacated in order to preserve the necessary 60 feet of ROW width.

2. Drainage/Grading: All grading is subject to an approved grading permit and soil erosion control plan. The applicant is required to demonstrate compliance with the City’s Stormwater Management requirements and State Storm Water Pollution Protection Plan requirements to the satisfaction of the City’s Permit and Development Center Engineering staff. Both of these have been submitted for
review along with the Site Plan. The storm water management is proposed to be handled with underground storage.

3. **Parking**: Off-street parking is not required in the “C-3B” District. A total of 49 off-street parking spaces are proposed for 57 residential units. The developer will be required to appeal the parking dimension and setbacks to the Zoning Board of Adjustment. The previous granted relief of the maneuvering aisle dimension has expired.

4. **Landscaping**: The landscaping standards generally applicable in the downtown include parkway plantings, parking lot perimeter and parking lot interior plantings. The submitted site plan includes parkway plantings in sidewalk planters on three street sides with the East M.L. King Jr. Parkway being kept with its existing streetscape design. Based on the project no longer proposing back-in angle parking adjoining in Southeast 7th Street, Traffic Engineering staff has recommended that the sidewalk and parkway plantings be pushed out to the curb as a Class “A” sidewalk. The same as is proposed on Southeast 6th Street and Raccoon Street.

The parking lot perimeter is not proposed to be setback and landscaped with trees due to constraints of existing dimensions of the tolerable Right-Of-Way vacation. Raccoon Street must maintain a minimum of 60-feet in width to preserve the necessary sidewalk, on street parking and travelled lane widths. In lieu of the typical parking lot perimeter, the developer is proposing a decorative fenced edge with Little Bluestem grasses between the parkway planting sidewalk and the parking lot. Additional landscaping is proposed along the perimeter of the foundation. Affected trees in place for the East M.L. King Jr. Parkway streetscape would be replaced with a slightly larger 3-inch caliper.

III. **STAFF RECOMMENDATION**

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

1. Compliance with all administrative review comments of the Permit and Development Center.

2. Any necessary relief of parking dimension deficiencies shall be approved by the Zoning Board of Adjustment.

3. Provision of a rooftop mechanical plan that demonstrates the screening of units from street level views, including the use of architectural enclosures if necessary.

4. Compliance with all final review comments of the Urban Design Review Board.

5. Provision of a pedestrian entrance on the east end of the building that is oriented toward East M.L. King, Jr. Parkway.
6. Review and approval of the finalized building elevations and materials by the Planning Administrator.

7. Any exterior wall mounted mechanical louvers shall be architecturally compatible with the building.

8. Placement of the sidewalk and parkway plantings at the street curb in Southeast 7th Street.

9. All utility meters and other utilities shall be placed on side or rear facades that are internal to the site not in front of the building toward the primary streets of East M.L. King, Jr. and Southeast 6th Street.

10. All transformers and ground-mounted equipment shall be noted on the site plan in a location approved by the Planning Administrator.

11. All services lines to the building and all utility lines in the adjoining Rights-Of-Way shall be located underground.

12. Relocation of the trash enclosure away from the street intersection closer toward the east end of the building.

**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:**

Francis Boggus made a motion for approval of the submitted Site Plan subject to the following:

1. Compliance with all administrative review comments of the Permit and Development Center.

2. Any necessary relief of parking dimension deficiencies shall be approved by the Zoning Board of Adjustment.

3. Provision of a rooftop mechanical plan that demonstrates the screening of units from street level views, including the use of architectural enclosures if necessary.

4. Compliance with all final review comments of the Urban Design Review Board.

5. Provision of a pedestrian entrance on the east end of the building that is oriented toward East M.L. King, Jr. Parkway.
6. Review and approval of the finalized building elevations and materials by the Planning Administrator.

7. Any exterior wall mounted mechanical louvers shall be architecturally compatible with the building.

8. Placement of the sidewalk and parkway plantings at the street curb in Southeast 7th Street.

9. All utility meters and other utilities shall be placed on side or rear facades that are internal to the site not in front of the building toward the primary streets of East M.L. King, Jr. and Southeast 6th Street.

10. All transformers and ground-mounted equipment shall be noted on the site plan in a location approved by the Planning Administrator.

11. All services lines to the building and all utility lines in the adjoining Rights-Of-Way shall be located underground.

12. Relocation of the trash enclosure away from the street intersection closer toward the east end of the building.

THE VOTE: 10-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 3

Request from Lucky Gal 1, Inc. (title holder) represented by Chris Pruisner (officer) to rezone property located at 3104 Southwest 9th Street:

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

B) Rezone property from “C-1” Neighborhood Retail Commercial District to “C-2” General Retail and Highway-Oriented Commercial District to allow reuse of a portion of the existing building for a game room or indoor recreational use. (ZON2019-00185)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The proposed rezoning would allow reuse of a portion of the existing building for a game room or indoor recreational use. The appellant has indicated that they would like to have alcohol sales as part of the future use.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use.

2. **Size of Site:** 15,914 square feet (0.37 acres).

3. **Existing Zoning (site):** “C-1” Neighborhood Retail Commercial District, “GGP” Gambling Games Prohibition Overlay District, and “FSO” Freestanding Sign Overlay District.

4. **Existing Land Use (site):** The subject property contains a 1-story commercial building containing approximately 4,384 square feet of space, which was previously occupied by Jim’s Appliances.

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

   **North** - “C-1”, Uses include Pleasant View Drive and an unoccupied 1-story commercial building.

   **South** - “C-1”; Use is the Park Avenue Presbyterian Church.

   **East** - “C-1”; Uses are Southwest 9th Street, a multiple-family residential dwelling, and Park Avenue Elementary School.

   **West** - “C-1”; Use is a parking lot for the Park Avenue Presbyterian Church.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the west side of the Southwest 9th Street corridor, in an area that includes a mix of commercial, educational, and religious assembly uses. The subject property is separated from a low-density residential neighborhood to the west by Park Avenue Presbyterian Church’s parking lot.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Gray’s Lake Neighborhood and within 250 feet of the Indianola Hills Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 13, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on September 13, 2019 (20 days prior to the public hearing) and September 23, 2019 (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 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. A Final Agenda was mailed to recognized neighborhoods on September 27, 2019.

The Gray’s Lake Neighborhood mailings were sent to Rick Trower, 1310 Broad
Street, Des Moines, IA 50315, and the Indianola Hills Neighborhood mailings were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

The applicant is scheduled to hold their neighborhood meeting on September 29, 2019. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

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

9. **PlanDSM Land Use Plan Designation:** Community Mixed Use, which is described as: "Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customer."

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. **Proposed Zoning Ordinance & Map:** The City Council has passed the 2nd of 3 readings for the new Zoning Ordinance and Map. The current draft of this Zoning Map designates the subject property and most of the Southwest 9th Street corridor as “RX1” District, which is described as follows: *intended for transitional areas between MX (mixed use) districts and N (neighborhood) districts, providing for residential and office buildings at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods.*

   The “RX1” district also allows for retail uses up to 12,000 square feet in area and restaurant uses. The “RX1” District does not allow consideration of a Conditional Use Permit for alcohol sales, which would be required in order for any non-restaurant use to sell alcohol.

   In order for the proposed game room or indoor recreation use to be allowed and to even be eligible to seek a Conditional Use Permit necessary to sell alcohol, the property must be designated as “MX3” District on the proposed Zoning Map. Staff does not believe that the “MX3” District would be appropriate for this site, given its proximity to both a church and school use, and since the “MX3” District allows uses such as bail bonds, pawnbrokers, gas stations, vehicle sales, and bars.
Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such an application could be filed simultaneously with an application for a Conditional Use Permit for alcohol sales and a Variance to the separation distance requirements for such.

2. **Streets and Access:** A traffic study was not required by City’s Traffic Engineering Division for the requested rezoning.

3. **Alcohol Sales:** Any sale of alcohol on the premise would be subject to the Zoning Board of Adjustment granting a Conditional Use Permit for such. It is likely that the Zoning Board of Adjustment would have to also grant a Variance to provision that requires 150 feet of separation from any church or school if it were to ever consider a Conditional Use Permit to allow alcohol sales since both a church and a school are within 150 feet of the site.

**III. STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use.

Part B) Staff recommends denial of the request to rezone to a “C-2” District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such an application could be filed simultaneously with an application for a Conditional Use Permit for alcohol sales and a Variance to the separation distance requirements for such.

**SUMMARY OF DISCUSSION**

Erik Lundy presented the staff report and recommendations. Staff believes the proposed C-2 zoning is too intense compared to the “RX1” zoning currently proposed in the public hearing draft of the new code. The property does not comply with the required separation distance from a church to sell alcohol. Noted the

David Courard-Hauri asked if the response map was complete since they received more than 3 cards in opposition?

Erik Lundy noted that for a couple of the cards received only a sliver of the property is within the 200’ and 250’ boundaries so the coloring may not be visible.

Mike Ludwig stated the response map will be updated before it goes to council. To reflect all cards received.

Chris Pruisner, 3104 SW 9th Street stated he and his wife have been doing business on the South Side for over 9 years and are graduates of Lincoln High School. They are in
need of more space and that is why they bought this building. With the extra space, they thought it would be a good idea to have an arcade that his customers could utilize while waiting for an appointment or for the kids to play while their parents are being tattooed. Originally, they thought it would be a good idea to offer beer for sale, but they decided that’s not their goal and have dropped the idea of selling any type of alcoholic beverages.

Dory Briles asked if the applicant held a Neighborhood meeting.

Chris Pruisner stated they did hold a meeting and 2 individuals showed up. There were concerns about noise that has transpired in the past from a bike club that occupied the building but he assured people there would be no loud noise and no bike clubs.

Jacqueline Easley asked what concerns were raised at the meeting.

Chris Pruisner stated the bike club was the main concern. They no longer occupy the building.

Francis Boggus asked for age range of his target audience for the arcade.

Chris Pruisner stated from 8 years old to teenagers.

Carolyn Jenison asked how long he has been invested in property on the southside of Des Moines.

Chris Pruisner stated 9 years. They have intentions of beautifying SW 9th. They utilized City grant money to replace the siding at their current location.

Abby Chungath asked if there is an alternate zoning that would allow the use of an arcade.

Carolyn Jenison stated she would be against strapping them down to just being an arcade. Up Down in the east village has been a great business and would hate for them not to have that type opportunity in the future.

Erik Lundy stated the game room would require the “C-2” zoning under the current code or the “MX3” under the new code. The Commission could place a condition that would prohibit the sale of alcohol.

Glenna Frank stated there could be a condition placed now under the current zoning but once the new code is adopted, that condition would no longer apply. They did discuss the applicant deferring the rezoning and seeking the “MX3” zoning once the new code is adopted.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Natalie Richardson, 921 Boulder Avenue stated her family’s bedroom windows face the church parking lot. The sound of a car door closing wakes them up at night so you
could only imagine what having a bar next to your house would be like. She worked hard to purchase a good safe place for her daughter and doesn’t want this commercial activity in her neighborhood. She believes the church parking lot will be used for overflow parking with people making noise all night.

Brianna Richardson, 921 Boulder Avenue read submitted letter verbatim.

Brenda Blazek, 926 Boulder Avenue stated there is a transitional home for 12-18-year-old children located at Park Avenue and 10th Street. They currently have a problem with the kids hanging out on the street and leaving garbage all over. She is concerned with these two uses meshing and creating a bigger problem for the neighborhood.

Kim Church, 2900 SW 9th Street stated with the sale of beer, this is no longer a family arcade and is just another bar. Alleged that the existing Lucky Gal location on University Avenue and one in Ankeny have had numerous police calls to the premises. She asked the commission to please keep this property zoned “C-1” to can keep additional noise, traffic and safety issues out of her neighborhood.

Ruth Canny, 910 Boulder Avenue stated she was told Lucky Gal would be applying to sell beer and tonight they said that is no longer the plan. The sale of alcohol is a real downer for the neighbors and suggest the commission deny the request.

Chris Pruisner stated they will not be pursuing the sale of alcohol. The building has been purchased so the tattoo shop will be moving there regardless. He only tattoos the people that come in and can’t say the people who come in are undesirable. What happens in the church parking lot is out of his control. He can only control what happens in the parking lot he owns. He is not aware of any case numbers from the police department. He has been broken into a couple times but that is it.

Dory Briles asked Mr. Pruisner for the anticipated hours of operation.

Chris Pruisner stated 8 PM will be his cut off. He believes parents will not bring their kids to an arcade that late during the school year. This will be more for daytime hours to occupy customers during their wait.

Lisa Howard asked if the business has its own off-street parking lot.

Chris Pruisner stated yes, but they are required by the City Traffic and Transportation Division to share as single drive way location on Pleasant View Drive that serves his parking lot and the church parking lot. His parking lot will continue to have an exit onto SW 9th Street.

Mike Ludwig asked if they can enter the building from the west side.

Chris Pruisner stated the doors on the west side of the building are fire exits. Customers will only be able to enter through the east side of the building.
Mike Ludwig asked if there will be signage in the parking lot directing people to the east side of the building.

Chris Pruisner stated yes, they want to direct people to the front door.

Abby Chungath asked for the hours of the tattoo parlor.

Chris Pruisner stated they are currently open from noon to 9 pm every day. Some days they close early and some days they are open a little later.

Carolyn Jenison asked for the applicant to verify that they have operated a tattoo business just up the street for 9 years.

Chris Pruisner stated yes, with 2 other locations located on University Avenue and another in Ankeny.

Abby Chungath asked if the tattoo parlor and the arcade will be 2 separate businesses.

Chris Pruisner stated yes.

Ruth Canny asked how they will keep people from parking in the church parking lot.

Chris Pruisner stated they will have an extensive security system on the building with cameras on the outside of the building. This will be an adjustment for the neighborhood and if problems arise, he hopes neighbors will come speak with him and find a resolution.

Kim Church stated with the traffic on SW 9th, she doesn’t see people following the one-way directional parking and exiting onto SW 9th.

Chris Pruisner stated he can only follow the direction the City has given him. He’s trying to make this building a lot nicer than it is now.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

David Courard-Hauri made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use and Part B) DENIAL of the request to rezone to a “C-2” District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such an application could be filed simultaneously with an application for a Conditional Use Permit for alcohol sales and a Variance to the separation distance requirements for such.
THE VOTE: 10-0

Mike Ludwig noted that a 6/7th vote of the City Council would be necessary to over-ride the Plan and Zoning Commission’s recommendation and approve the zoning.

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Item 4

Request from Fred and Jeri Robinette (title holders) to rezone property located at 2833 East Acorn Street:

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

B) Rezone property from “A-1” Agricultural District to “R1-80” One Family Residential District to allow subdivision and development of the property for an additional single-family dwelling acreage. (ZON2019-00186)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow the applicant to pursue the development of a second single-family dwelling on the southern portion of their property.

2. Size of Site: The property 226,076 square feet (5.19 acres).


4. Existing Land Use (site): The subject property is comprised of two parcels owned in common. The northern parcels measures 2.64 acres and has frontage on the south side of Acorn Street. It contains a single-family dwelling. The southern parcel measures 2.55 acres. It is maintained as yard space and does not have street frontage.

5. Adjacent Land Use and Zoning:

   North – “A-1”; Uses are a single-family dwelling and undeveloped land.

   South – “A-1”; Uses are agricultural production and undeveloped land.

   East - “A-1”; Use is agricultural production.

   West – “A-1”; Use is undeveloped land.
6. **General Neighborhood/Area Land Uses:** The site is located in an area that consists primarily of agricultural land, with several residential acreages located along East Acorn Street.

7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood association. All recognized neighborhood associations were notified of the public hearing by mailing of the preliminary agenda on September 13, 2019. Notifications of the hearing for this specific item were mailed on September 13, 2019 (20 days prior to the public hearing) and September 23, 2019 (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 site.

8. **Relevant Zoning History:** The subject property was annexed into the City of Des Moines and zoned as "A-1" Agriculture District in 2009.

On August 28, 2019, the Zoning Board of Adjustment considered a request from the applicant for the following relief:

- Variances of up to 8 acres less than the minimum 10 acres of lot area required for a single-family residential use (Parcels A & B).
- Exception of up to 300 feet less than the minimum 600 feet of lot width required for a single-family residential use (Parcel A).
- Exception of up to 580 feet less than the minimum 600 feet of lot width required for a single-family dwelling (Parcel B).
- Exception of the single-family dwelling design standard that front door of the dwelling shall appear to face the street (Parcel B).

The relief would have allowed the subject property to be reconfigured into a northern parcel at least 300 feet of frontage along East Acorn Street and at least 2 acres of lot area, which would contain an existing single-family dwelling; and a southern parcel with a "flag lot" layout with at least 20 feet of frontage along East Acorn Street and at least 2.5 acres of lot area, which would contain a new single-family dwelling that would face to the east.

The Board denied the requested Variance. The appellant withdrew the request for the Exceptions to preserve the right to request the Exceptions at a later date. The Zoning Ordinance does not allow the same relief to be requested within a two-year window unless it can be demonstrated that the circumstances of the request have changed.

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.

III. **ADDITIONAL APPLICABLE INFORMATION**

1. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as “Low Density Residential” on the Future Land Use Map. PlanDSM describes this designation as “areas developed with primarily single family and two-family units up to 6 units per net acre.”

   The subject property is comprised of two parcels owned in common. The northern parcel has frontage on the south side of Acorn Street and contains a single-family dwelling. The southern parcel is maintained as yard space and does not have street frontage. This parcel cannot be developed without street frontage that complies with the Zoning Ordinance.

   As development occurs, it is imperative that lots and streets are laid out in a manner that allows for future growth. PlanDSM identifies low density residential as the planned use for the subject property and the surrounding area. However, the intent is for a street network to be developed. Staff supports the rezoning but does not believe that development on the southern parcel should occur until a street has been extended providing the lot with frontage without needing relief from the Zoning Board of Adjustment for the creation of a flag lot with limited frontage on East Acorn Street. Allowing flag lot development and living the few streets in the area with development while leaving no street access for the property to the south is not good for the long-term growth of the City.

2. **Natural Site Features:** Development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

3. **Utilities:** Water is available along East Acorn Street. Sanitary sewer is not available within 300 feet of the subject property. Therefore, single-family residential uses would be permitted to use a septic system. Once a sanitary sewer line is available within 300 feet of the property the property owner will be required to connect to the sewer system. A dry sewer line should be installed in the adjoin right-of-way at the time of development to facilitate the future extension of sewer in the area.

4. **Drainage/Grading:** Any 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.
5. Traffic Study Policy: A traffic study was not required in accordance with the City’s traffic study policy. Any street system would be reviewed through the subdivision process.

6. Subdivision: Any subdivision of the property must comply with Chapter 106 of the City Code.

7. Urban Design: Staff recommends the following design standards to ensure a level of quality that will support the long-term stability of the proposed development and is consistent with the minimum placed on similar developments throughout the City.

   a) No same house plan shall be built on adjacent lots.
   b) Any house shall have a full basement unless determined infeasible by the City’s Building Official and Planning Administrator.
   c) Any house shall have a minimum two-car attached garage.
   d) The front façade of any house shall contain one of the following:
      i. A front porch of not less than 60 square feet; or
      ii. Stone or brick masonry siding covering at least 1/3 of the facade.
   e) All street facing windows and doors shall have trim that is no less than 4 nominal inches in width.
   f) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
   g) Any 1-story house shall be constructed with a minimum of 1,400 square feet of above-grade finished floor area.
   h) Any 1-½-story house shall be constructed with a minimum of 1,600 square feet of above-grade finished floor area.
   i) Any 2-story house shall be constructed with a minimum of 1,800 square feet of above-grade finished floor area.
   j) Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
   k) Any chain link fence shall have black vinyl cladding.

**STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the proposed rezoning in conformance with the PlanDSM Creating Our Tomorrow.

Part B) Staff recommends approval of the rezoning subject to the following conditions:
1. Development of the southern parcel is prohibited until such time that a public street and utilities, including but not limited to, a dry sewer line is extended along the east property line of the property.

2. Any development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

3. No same house plan shall be built on adjacent lots.

4. Any house shall have a full basement unless determined infeasible by the City’s Building Official and Planning Administrator.

5. Any house shall have a minimum two-car attached garage.

6. The front façade of any house constructed must contain one of the following:
   a. A front porch of not less than 60 square feet; or
   b. Stone or brick masonry siding covering at least 1/3 of the façade.

7. All street facing windows and doors on any house shall have trim that is no less than 4 nominal inches in width.

8. The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.

9. Any 1-story house shall be constructed with a minimum of 1,400 square feet of above-grade finished floor area.

10. Any 1-½-story house shall be constructed with a minimum of 1,600 square feet of above-grade finished floor area.

11. Any 2-story house shall be constructed with a minimum of 1,800 square feet of above-grade finished floor area.

12. Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, Masonite, or cement fiber board.

13. Any chain link fence shall have black vinyl cladding.

**SUMMARY OF DISCUSSION**

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

**Mike Ludwig** stated a primary reason the City annexed property going further south was so the City would have review authority over future subdivisions. This is a subdivision that occurred before the property was within the City’s 2-mile extra territorial review boundary. When you plat in the county, you plat a roadway easement instead of a right of way with the lot line going to the center of the roadway. Since there are other lots remaining to the south, staff has requested there be public infrastructure and roadway extended to serve those properties. Our staff report recommends extension of public right of way and utilities South from Acorn Street into this development.
Erik Lundy stated the closest sanitary is further west and would need to be extended throughout Acorn into this development as well.

Mike Ludwig stated at a minimum the City wants a road extended to the lot being developed so it can be extended to other lots in the future. Since the sewer is more than 300 feet from a public sewer, we cannot force them to connect it at this point. Staff is requested a dry sewer to be installed so public sewer can be connected and extended in the future.

Fred Robinette, 2833 East Acorn Street stated this land has been plated since the early 80’s and he bought Lot 19 nearly 21 years ago. The other lots are owned by Southland Development Corporation and when they develop their land, they will put in the roadways, sidewalks and sewer to make their investment back. He thinks he should be able to sell the lot for a single-family dwelling that fits the character of our neighborhood.

Will Page asked if he agreed with the conditions City Staff has placed on the rezoning.

Fred Robinette stated he would probably be fine with those conditions.

Will Page asked if this was his first time seeing these conditions.

Fred Robinette stated he did read the copy he received in the mail but he isn’t a contractor and doesn’t need to worry about how the house is built, just want it to look nice and fits the neighborhood.

Mike Ludwig stated the plat provides 40-foot easements on each of the lots going South to be used for access. Staff would be asking for 60 feet of right of way dedicated, 30 feet on each side of the common lot lines.

Dory Briles asked if there isn’t any time pressure for the applicant. Asked if this could be approved after the new zoning code is adopted and the applicant wouldn’t need to come before the Commission.

Mike Ludwig stated that Ms. Briles was correct.

Greg Jones asked if it needs to be rezoned from Agriculture.

Mike Ludwig stated it will be rezoned by the new zoning map the City is adopting but to obtain a permit to build, there would need to be frontage on a public street and would ask for the public infrastructure to continue south.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Rob Davison, 2705 East Acorn Street stated when he bought his home 4 years ago, they said he wouldn’t be getting anymore neighbors because you would need to have a minimum 10-acre lot to develop on. He doesn’t have anything against Mr. Robinette,
he just came in to share what he was told when he bought the home and would like to keep it the way it is.

Fred Robinette stated he would rather have single family homes than the 16-plexes Southland Development will put in there.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones made a motion for approval of Part A) the Commission find the proposed rezoning in conformance with the PlanDSM Creating Our Tomorrow and Part B) APPROVAL of the rezoning subject to the following conditions:

1. Development of the southern parcel is prohibited until such time that a public street and utilities, including but not limited to, a dry sewer line is extended along the east property line of the property.
2. Any development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.
3. No same house plan shall be built on adjacent lots.
4. Any house shall have a full basement unless determined infeasible by the City’s Building Official and Planning Administrator.
5. Any house shall have a minimum two-car attached garage.
6. The front façade of any house constructed must contain one of the following:
   a. A front porch of not less than 60 square feet; or
   b. Stone or brick masonry siding covering at least 1/3 of the façade.
7. All street facing windows and doors on any house shall have trim that is no less than 4 nominal inches in width.
8. The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
9. Any 1-story house shall be constructed with a minimum of 1,400 square feet of above-grade finished floor area.
10. Any 1-½-story house shall be constructed with a minimum of 1,600 square feet of above-grade finished floor area.
11. Any 2-story house shall be constructed with a minimum of 1,800 square feet of above-grade finished floor area.
12. Exterior material for any house constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, Masonite, or cement fiber board.
13. Any chain link fence shall have black vinyl cladding.

THE VOTE: 10-0
Committee and Director’s Reports:

Mike Ludwig stated City Council’s third and final consideration of the new zoning ordinance will be October 14, 2019. If approved on October 14, 2019, the ordinance will be effective, December 15th, 2019. City Council has asked for some revisions that require a separate notice and hearing. On November 7, 2019, the Plan and Zoning Commission will be considering amendments to the ordinance, with the intent of a hearing by Council on December 2, 2019 and an effective date of December 16th. There will be PUD cases submitted prior to the effective date of the new code that the City will continue to process under our existing code.

Jacqueline Easley asked if the public will be able to comment on the parallel revisions at the November 7, 2019.

Mike Ludwig stated a public hearing will be held on November 7, 2019 regarding the amendments. Anyone is welcome to comment on the proposals.

Meeting adjourned at 7:40 pm.