

STAFF PRESENT: Jason Van Essen, Glenna Frank, Judy Parks-Kruse, Tyler Hall and Carrie Kruse.

John “Jack” Hilmes made a motion to approve the November 21, 2019 Plan and Zoning Commission meeting minutes. Motion Carried 8-0-1 (Steve Wallace abstained as he was not present for the November 21, 2019, Plan and Zoning Commission meeting).

Jacqueline Easley asked if any members of the audience or the Commission requested to speak on consent agenda item #1. None were present or requested to speak.

Jacqueline Easley stated that perhaps the applicant for item #3 has agreed to all staff recommendations and this item could be moved to the consent agenda.

Mike Ludwig stated the proposed plat, with conditions recommended in the staff report, is consistent with that approved PUD. Staff has heard from the applicant that an adjoining property owner within the same PUD have concerns about a proposed easement but staff hasn’t received any communication directly from the adjoining property owner. The adjoining owner did not object to the PUD Concept Plan amendment.

Erik Bohnenkamp, Hubbell Development, 6900 Westtown Parkway, WDM stated they agree with all 5 conditions but are asking for the 5th condition to state the access only be open for emergency purposes.

Mike Ludwig stated the staff recommendation is for the access to remain open to the public always. If that isn’t obtained through an easement, the plat cannot be approved and they will need to amend their PUD concept plan.

Jacqueline Easley stated this will need to be deliberated with the commission and will stay on the public hearing agenda.

Greg Jones made a motion to approve Consent Agenda Item #1 per the recommendations in the staff reports. Motion Carried 9-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Annett Holdings, Inc. (owner) represented by Jason Webb (officer) for vacation of a segment of Right-Of-Way south of and adjoining the 6101 block of Southwest Leland Avenue, to allow it to be assembled with the applicant’s property to the south for future commercial development. (11-2019-1.28)
1. **Purpose of Request:** The applicant has requested vacation of an irregularly-shaped portion of public right-of-way (ROW) on the southeastern corner of the intersection of Southwest 63rd Street and Southwest Leland Avenue. The proposed vacation would allow the applicant to combine the subject property with other property they already own.

2. **Size of Site:** 7,932 square feet.

3. **Existing Zoning (site):** “C-2” General Retail and Highway Oriented Commercial District, “GGP” Gambling Games Prohibition Overlay District and “FSO” Freestanding Sign Overlay District.

4. **Existing Land Use (site):** Southwest Leland Avenue right-of-way.

5. **Adjacent Land Use and Zoning:**
   - **North** – “D-R”; Uses are Southwest Leland Avenue right-of-way and undeveloped city-owned land.
   - **South** – “D-R”; Use is undeveloped land owned by the applicant.
   - **East** – “M-1”; Use is undeveloped city-owned land.
   - **West** – “D-R”; Uses are Southwest 63rd Street right-of-way and developed land owned by the applicant.

6. **General Neighborhood/Area Land Uses:** The subject right-of-way is located east of Southwest 63rd Street and south of Southwest Leland Avenue in an area that consists of a mix of agricultural, commercial, industrial and open space uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Southwestern Hills Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of Preliminary Agenda on November 15, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on November 25, 2019 (10 days prior to the hearing) to the Southwestern Hills 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 Southwestern Hills Association notices were mailed to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.

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

9. **PlanDSM Land Use Plan Designation:** Business Park.
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: A connection node and fitting for Des Moines Water Works is located just within the western boundary line of the subject property. A 12-inch distribution water main is located to the north of the subject property and connects along the western boundary line of the subject property to a 36-inch feeder main along the west edge. A fiber optics cable is located along the western boundary line of the subject property. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

2. Streets/Sidewalk: There are no structures or individual property owners that would be impacted by the proposed vacation and restricted access. Any future use of the property is subject to compliance with zoning, site plan, and building regulations.

III. STAFF RECOMMENDATION

Staff recommends approval of the requested vacation of right-of-way, subject to 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.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Greg Jones made a motion for approval of the requested vacation of right-of-way, subject to 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.

THE VOTE: 9-0

NON-CONSENT AGENDA PUBLIC HEARING ITEMS
Item 2

City initiated request to vacate a segment of East 15th Street from East M.L. King Jr. Parkway to East Market Street in the vicinity of 200 Southeast 15th Street, to assemble with adjoining City-owned property for redevelopment.

(11-2019-1.27)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The City has requested vacation of the remaining portion of the Southeast 15th Street Right-Of-Way (ROW). It is intended that this would be assembled with other City owned property and made available for industrial redevelopment with access to the adjacent railroad network.

2. Size of Site: 38,214 square feet (0.87 acres)


5. Adjacent Land Use and Zoning:

   East – “M-1”; Uses are the Burlington Northern Sante Fe Railroad, Southeast Connector (with adjacent recreational trail) and vacant land.

   West – “M-2”, Use is vacant land.

6. General Neighborhood/Area Land Uses: The ROW is in a primarily industrial area adjacent to the Southeast Connector and several railroads.

7. Applicable Recognized Neighborhood(s): The subject property is not in a recognized neighborhood. It is within 250 feet of the Capitol East Neighborhood to the north. This neighborhood association was notified of the of the original scheduled Commission meeting by mailing on November 1, 2019 of the Preliminary Agenda. Additionally, separate notifications of the hearing for this specific item were mailed on November 11, 2019 (10 days prior to the original scheduled hearing) to the Capitol East Neighborhood 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 Capitol East Neighborhood Association notices were mailed to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.
8. **Relevant Zoning History:** N/A.

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

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 major 48-inch Des Moines Water Works feeder water main that must be preserved. Due to the size and depth of this main, the entire vacated ROW would need to be maintained with an easement for protection and maintenance of this water main. Structures would not be permitted within this easement.

2. **Streets:** The property abuts the Southeast Connector project to the south side. The description of the vacation area takes into account leaving the existing street stub and traffic signal equipment on the north side of the intersection. The remainder of the requested ROW is not determined necessary for any future public street improvements. It is anticipated that this would be a primary access point into any redevelopment to the north.

The Plan & Zoning Commission has requested that the Real Estate Manager be present to provide additional information on this request. The Real Estate Manager is unable to attend the December 5, 2019 meeting of the Commission, so staff recommends that the item be further continued to the December 19, 2019 meeting of the Commission.

III. **STAFF RECOMMENDATION**

Staff recommends continuance of this item to the December 19, 2019 Plan and Zoning Commission meeting.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

Jann Freed made a motion for continuance of this item to the December 19, 2019 Plan and Zoning Commission meeting.

**THE VOTE:** 9-0
Item 3

Request from Hubbell Realty Company (developer) represented by Eric Bohnenkamp (officer) for review and approval of a Preliminary Plat “Grover Woods” on property in the vicinity of 4500 Hubbell Avenue, to allow subdivision of the property into 84 single-family development lots. The subject property is owned by Baker Real Estate, LP.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant proposes to develop the property in accordance with the recent PUD Conceptual Plan Amendment for 84 lots for detached single-family dwellings.

2. Size of Site: 19.98 acres.

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

4. Existing Land Use (site): Agricultural land and creek tributary with timbered area.

5. Adjacent Land Use and Zoning:

   North – “R1-80” & “A-1”, Uses are single-family dwellings and agricultural land.

   South – Limited “R-3” and “A-1”, Uses are multiple-family dwellings and vacant land.

   East – “C-2” & “A-1”, Uses are single-family dwellings, office, warehouse, repair shop, outside storage, vehicle display lot, vacant retail garden center, vacant repair shop, and vacant land.

   West – “A-1”, Use is vacant timbered land.

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

7. Applicable Recognized Neighborhood(s): The subject PUD is not in a recognized neighborhood but is within 250 feet of the Sheridan Gardens Neighborhood. The neighborhood was notified of the originally scheduled Commission meeting by mailing on October 18, 2019 of the Preliminary Agenda. Additionally, separate notifications of the hearing for this specific item were mailed on October 28, 2019 (10 days prior to the original scheduled public hearing) to the Sheridan Gardens Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property within the PUD and within 250 of the PUD boundary. A final agenda was mailed on November 1, 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 Sheridan Gardens Neighborhood notices were mailed to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

8. Relevant Zoning History: The subject property was rezoned by the City Council from “A-1” District to “PUD” District on October 27, 1997. The most recent amendment (7th) to the PUD Conceptual Plan was approved by the City Council on September 9, 2019 by Roll Call No. 19-1444 to amend the PUD from Industrial use to allow single-family residential dwelling use on the subject property, leaving the remaining property for future low-density residential use requiring a further PUD Conceptual Plan amendment.


10. Applicable Regulations: Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission shall determine if such Preliminary Plat conforms to the standards and requirements outlined in Chapter 354 of the Iowa Code, and the City Subdivision Ordinance and shall approve, conditionally approve or reject such plat within 45 days after the date of submission to the City Permit and Development Center. Unless the applicant agrees in writing to an extension of time, the Preliminary Plat shall be deemed approved if the Commission does not act within such 45-day period. The Commission's action for approval or conditional approval shall be null and void unless the final plat is submitted to the City Permit and Development Center within 270 days after the date of such action; provided, however, that the Permit and Development Administrator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the final plat to the City Permit and Development Center.

II. ADDITIONAL APPLICABLE INFORMATION

1. Natural Features/Landscaping: While the property is currently mostly tilled agricultural land, there are dense timbered areas to the northeast and northwest of the proposed amendment area. There is timbered fence line area on the southern edge of property. The PUD Conceptual Plan indicates that any tree removals resulting from the proposed development would require compliance with mitigation per the City’s Tree Removal and Mitigation Ordinance in Chapter 42, Article X of the City Code. This tree removal plan is shown on Sheet 3 along with the proposed street tree plantings. There appears to be sufficient room to provide additional street trees on frontages for lots 25, 79, 75, 61, 59, 67, 84, and 70. Additional plantings are required per the PUD standards for private property as shown on Sheet 3.

2. Drainage/Grading: There is a tributary to Four Mile Creek running through the northern portion of the subject amendment area, generally from northeast to southwest. There are existing easements along the drainage way to protect stream bank stabilization improvements that have been put in place. Conservation easement areas are indicated on the Preliminary Plat to protect the sensitive
timbered areas of the drainageway. An approved Storm Water Pollution Prevention Plan (SWPPP) including proof of Iowa DNR Authorization must be submitted prior to issuance of a Grading Permit.

3. **Traffic/Street System:** A Traffic Impact Study was not required prior to the proposed PUD Conceptual Plan amendment pursuant to City policy and proposed number of dwelling units. The proposed street layout indicates a single street entrance with a loop network. There is an Outlot “Y” shown as a secondary access connection to the multiple-family residential development to the east to meet Fire Code. The Preliminary Plat must provide details as to how this will be maintained either by adjoining property owners or a homeowner’s association.

The applicant has indicated the intent to keep this closed off for access only by emergency vehicles and not open for cross access between the single-family subdivision and multiple-family residential community residents to the northeast. The current 2015 International Fire Code (IFC) would not require this access to be kept open so long as emergency vehicles has access. However, the 2018 IFC pending adoption by the City Council in the Spring would require full vehicular access by adjoining properties.

Staff believes that this should be kept open for use by the residents. The previously approved PUD Development Plan for the McKinley Crest Apartments adjoining to the northeast requires a full access cross connection between that property and the subject Grover Woods property. This is required to be provided at any point in the future where the number of units served by the single access to Hubbell Avenue reaches 200 units. The PUD is intended to be a cohesive development and as much interconnection as possible should be provided and maintained.

5-foot wide public sidewalks are required to be shown along all public street frontages including Hubbell Avenue. If they become necessary to be placed on private property, then public pedestrian easements should also be provided.

### III. STAFF RECOMMENDATION

Staff recommends approval of the submitted Preliminary Plat for “Grover’s Woods” subject to the following:

1. Compliance with all administrative review comments of the Permit and Development Center.
2. Provision of all PUD requirements for single-family dwellings as approved by the 7th Amendment to the Baker PUD Conceptual Plan.
3. Provision of 5-foot sidewalks along all public street sides of all lots, including a necessary public pedestrian easement for any walk which would need to be placed on private property.
4. Provision of additional street trees along the frontages of lots 25, 79, 75, 61, 59, 67, 84, and 70 to the satisfaction of the Permit and Development Administrator.
5. Provision of details on the Preliminary Plat describing the purpose of the outlot and maintenance responsibilities for Outlot “Y” to the satisfaction of the Permit and
Development Administrator, and that this access must be kept open and maintained for vehicular use by residents of the surrounding PUD.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendations.

Mike Ludwig stated if any objections come in before the final plat, they will need to amend the PUD to show an access somewhere else. Staff is hopeful the two parties can come to an agreement on an easement.

Erik Bohnenkamp, 6900 Westtown Parkway, WDM stated they aren’t objecting to the secondary access, they would like it to be restricted to emergency access only for the time being. Once the adjoining property is developed, they will remove that restriction and have it become public access.

Greg Jones asked how they would like condition #5 to read?

Erik Bohnenkamp stated he would like the condition state that the easement is for emergency access only so that traffic won’t go through the apartment complex for the time being.

Mike Ludwig stated staff has an issue with that request because residents will likely complain later when the road is opened for public access after being an emergency access for some time. Staff believes this should be public access from day one so there is no surprise to residents in the future.

Erik Bohnenkamp stated if they cannot come to an agreement for an easement, Hubbell will not be able to go forward with this project. As of right now, Anawim has requested a gate be installed on the Eastern side of the access road.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one from the audience requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Jann Freed reiterated that there have been past experiences when accesses are changed later and residents become concerned.

Emily Webb asked how long this would stay as an emergency access if granted? Jason Van Essen stated it is contingent on when the remaining phases are built to the east, which is hard to predict now.

John “Jack” Hilmes asked if the density of adjoining property would drive the time the gate would need to be open?
Jason Van Essen stated at a certain number of units, they would be required to have that secondary access.

Jacqueline Easley asked if they could change condition #5 to state to the satisfaction of the Permit and Development Administrator.

Jason Van Essen stated that would give them time to work with Anawim on an easement.

Mike Ludwig stated the verbiage would allow for that option but staff hopes they are able to agree on an easement before the final plat.

**COMMISSION ACTION:**

Jann Freed made a motion for approval of the submitted Preliminary Plat for “Grover’s Woods” subject to the following:

1. Compliance with all administrative review comments of the Permit and Development Center.
2. Provision of all PUD requirements for single-family dwellings as approved by the 7th Amendment to the Baker PUD Conceptual Plan.
3. Provision of 5-foot sidewalks along all public street sides of all lots, including a necessary public pedestrian easement for any walk which would need to be placed on private property.
4. Provision of additional street trees along the frontages of lots 25, 79, 75, 61, 59, 67, 84, and 70 to the satisfaction of the Permit and Development Administrator.
5. Provision of details on the Preliminary Plat describing the purpose of the outlot and maintenance responsibilities for Outlot “Y” to the satisfaction of the Permit and Development Administrator.

**THE VOTE: 9-0**

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**Item 4**

Request from Clampet Corner, LLC (owner) represented by Bruce Gerleman (officer) for appeal of the administrative denial of a Site Plan “4337 Park Avenue Site Plan” on property located at 4337 Park Avenue, to waive the requirement to remove the western driveway access as part of the redevelopment of the property for a restaurant expansion.

(10-2020-7.35)
STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The City’s Permit & Development Center has been reviewing an administrative Site Plan that allows redevelopment of the property with a new Jethro’s brand restaurant. The Site Plan proposes to retain two existing drive approaches along Park Avenue generally in their current form, which includes a 36-foot wide approach and a 24-foot wide approach. Staff has notified the applicant that this configuration cannot be approved administratively since Site Plan policies require that the width of the 36-foot wide drive be reduced to 24 feet. The applicant has appealed this requirement to the Plan & Zoning Commission.

2. Size of Site: 1.15 acres.

3. Existing Zoning (site): “C-1” Neighborhood Retail Commercial District and “FSO” Freestanding Signs Overlay District.

4. Existing Land Use (site): The subject property contains the vacant “Orlando’s” restaurant building and parking lot.

5. Adjacent Land Use and Zoning:

   North – “U-1”, Uses are Water Works Park & the Isaac Walton League.

   South – “M-1”, Uses are office, warehousing, and industrial.

   East – “C-2”, Uses are a “Casey’s” gas station/convenience store and warehousing.

   West – “U-1”, Use is Water Works Park.

6. General Neighborhood/Area Land Uses: The subject property located on the north side of Park Avenue at its intersection with George Flagg Parkway. The area includes a mix of commercial, multiple-family residential, and parkland uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Southwestern Hills Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on November 15, 2019. Additionally, separate notification of the hearing for this specific item was mailed on November 25, 2019 (10 days prior) to the Southwestern Hills 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 on November 27, 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 Southwestern Hills Association notices were mailed to
George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.

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

9. **PlanDSM Land Use Plan Designation:** Neighborhood Mixed Use.

10. **Applicable Regulations:** In consideration of the criteria set forth in Chapter 18B of the Iowa Code, appeals of decisions of the Planning Director shall be in accordance with the following in Chapter 82, Article V of the City Code:

   A. The appellant may, upon notice to the Plan and Zoning Commission, appeal in whole or in part any determination or action of the Planning Director made within the scope of this article. Appeal shall be made without cost by written notification of the appeal received by the Community Development Department within 90 days after the date of the action from which appeal is sought.

   B. The Plan and Zoning Commission shall decide all appeals within 30 days after written notification of the appeal has been received by the Community Development Department, provided that the appellant may agree to a longer time period not to exceed 60 days after the written notification of the appeal has been received by the Community Development Department. Failure to decide the appeal within such period shall have the effect of overturning the Director's disapproval and approving the Site Plan as appealed. Except as provided in this article, **the affirmative vote of at least eight commission members shall be necessary to overturn or modify the action from which appeal is sought.** At the commission meeting, the appealing party shall be presented a reasonable opportunity to present his or her views.

   C. The appellant may, upon written notice to the City Council, appeal in whole or in part any determination made by the Plan and Zoning commission made within the scope of this article (Chapter 82, Article V of the City Code). Appeal shall be made without cost by filing written notification with the City Clerk within 30 days after the Commission ruling.

   D. The City Council shall decide all appeals within 30 days after written notification of the appeal has been received by the City Clerk. A majority vote of the City Council shall be necessary to overturn the action of the Plan and Zoning Commission.

**II. ADDITIONAL APPLICABLE INFORMATION**

**Traffic & Transportation:** The Site Plan proposes to retain two existing drive approaches along Park Avenue generally in their current forms. These include a 36-foot wide easterly drive approach and a 24-foot wide westerly drive approach. Staff has notified the applicant that this configuration cannot be approved administratively since the City’s Traffic & Transportation policies require that the Site Plan either provide one (1) 36-foot wide approach or two (2) 24-foot wide drive approaches.
Staff believes that it is necessary in to reduce the width of the drive approaches in order to limit the number of vehicles that can simultaneously turn onto Park Avenue from the site. Reduced driveway widths would also improve safety for pedestrians on the sidewalk along Park Avenue.

III. STAFF RECOMMENDATION

Staff recommends denial of the Site Plan based on the finding that it’s necessary to limit the site to either provide one (1) 36-foot wide approach or two (2) 24-foot wide drive approaches along Park Avenue.

Should the Commission be inclined to grant the appeal, staff recommends that the balance of the Site Plan be in compliance with all administrative review requirements of the City’s Permit and Development Center.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendations.

Bruce Gerleman, stated they will be tripling the size of the current building with additional parking on the east and west sides of the building and will bring the entire site up to code. They are asking to maintain their existing 33’ driveway because of delivery trucks, garbage trucks and clientele purposes. The Casey’s general store next to this property has two driveways that are each 35-feet wide. This will be a first-class site and it doesn’t make any sense for him to cut out the current driveways that have been there for over 50 years.

Rocky Sposato asked how the delivery trucks will access the lot.

Bruce Gerleman stated they will enter at the east entrance and back up to the rear of the building for deliveries and trash pickup.

CHAIRPERSON OPENED THE PUBLIC HEARING

Marian Riggs, 4301 Park Avenue, stated she doesn’t have a problem with the width of the driveways. She does have concerns about the lighting and noise from the rooftop bar that is proposed based on an article in the Des Moines Register.

Bruce Gerleman stated there will be no rooftop bar.

Jann Freed asked if they have plans for live music?

Bruce Gerleman stated they do not have plans for any live music. If they do have live music, they will be aware of those concerns and follow all city noise ordinances.

CHAIRPERSON CLOSED THE PUBLIC HEARING
COMMISSION ACTION:

John “Jack” Hilmes made a motion to grant the appeal subject to the balance of the Site Plan complying with all administrative review requirements of the City’s Permit and Development Center.

THE VOTE: 8-0-1 (Carolyn Jension abstained)

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Item 5

Request from Coluzzi Construction, LLC (owner) represented by Mitch Coluzzi (officer) for an appeal of the administrative denial of a Plat of Survey submitted for property in the 5600 block of Southeast 27th Street, currently described as Outlot Y in Prairie Hills Des Moines Plat No. 1.

(13-2020-1.21)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant proposes to develop the property for one (1) single-family dwelling.


3. Existing Zoning (site): “R1-80” One-Family Residential District and “FSO” Freestanding Signs Overlay District.

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

5. Adjacent Land Use and Zoning:

   North – Tobis Park Estates “PUD”, Uses are single-family dwellings.
   South – Limited “R-3”, Use is assisted living facility.
   East – Limited “R1-70”, Use is vacant agricultural land.
   West – “R1-80”, Use is vacant agricultural and timbered land.

6. General Neighborhood/Area Land Uses: The subject property is located in an undeveloped area between single-family residential subdivision and an assisted living facility. This area is approximately a half mile south of the Easter Lake County Park.

7. Applicable Recognized Neighborhood(s): The subject PUD is in the Easter Lake Area Neighborhood. The neighborhood was notified of the Commission meeting by
mailing of the Preliminary Agenda on November 15, 2019. Additionally, separate
notifications of the hearing for this specific item were mailed on November 25, 2019
(10 days prior to the public hearing) to the Easter Lake Area Neighborhood
Association and to the primary titleholder on file with the Polk County Assessor for
each property within 250 of the subject property. A final agenda was mailed on
November 27, 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 Easter Lake Area Neighborhood Association notices
were mailed to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

8. Relevant Development History: On January 17, 2008, the Plan and Zoning
Commission approved a Preliminary Plat for "Prairie Hills Des Moines". This
Preliminary Plat showed the subject property as being subdivided for 20 single-
family lots on a street system with Southeast 27th Street running north/south
through the western portion of the property and an east/west street extending east
from Southeast 27th Street stubbing to the east property line.

The Final Plat for the property was approved by the City Council on August 11,
2008 in accordance with the approved Preliminary Plat. The subject Outlot Y
designated for future development.


10. Applicable Regulations: An applicant may appeal the determination of the Permit
and Development Coordinator to the Plan and Zoning Commission. Appeal shall be
made, without cost, by written notification received by the Department of
Community Development within 30 days after the date of the determination by the
Permit and Development Center Coordinator.

Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the
Commission shall decide all appeals within 30 days after the written notification has
been received by the Department of Community Development, provided the
appellant may agree to a longer time period not to exceed 60 days after receipt of
the written notification. Failure to decide the appeal within such period shall have
the effect of overturning the Coordinator's action and approving the Plat of Survey
as appealed.

The affirmative vote of at least eight Commission members shall be necessary to
overturn or modify the action of the coordinator. At the Commission meeting, the
appealing party shall be presented a reasonable opportunity to present his or her
views. In making its decision on an appeal, the Commission shall determine
whether the Coordinator's decision is in conformity with the requirements of Chapter
106 Article IV of the City Code.

Decisions of the Commission may be appealed to the City Council in the same
manner as appeals from the action of the Coordinator, provided a majority vote of
the City Council shall be necessary to overturn or modify the action of the Commission.

II. ADDITIONAL APPLICABLE INFORMATION

The Permit and Development Coordinator in concurrence with the Planning Director and City Engineer reviewed the submitted Plat of Survey under the provisions of Section 106-132 of the City Code. The determination was made that it did conform with the intent for provision of appropriate block design and lot design with all necessary public improvements in place. In this instance, the proposed necessary public street network and public utilities approved with the Preliminary Plat are not in place. The Outlot was intended for future development by the Final Plat. The Permit and Development Coordinator has determined that this was approved with the future development intended to conform to the approved Preliminary Plat.

Staff believes that if the developer intends to provide one lot for one single-family dwelling, the next step would be to submit an amendment to the approved Preliminary Plat or a new Preliminary Plat proposing such for consideration by the Plan and Zoning Commission.

III. STAFF RECOMMENDATION

Staff recommends that the Commission uphold the denial of the submitted Plat of Survey by the Permit and Development Center Coordinator.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendations.

Glenna Frank stated the legal department has reviewed this along with the planning staff to see what the next step should have been. They did advise the applicant to submit an amendment to the preliminary plat, rather than submitting a plat of survey which is the reason staff has recommended denial.

Mitch Coluzzi, 2421 High Street stated they have purchased this property with the intent of constructing a single-family dwelling for his parents and other generations to come. His grandparents are currently failing in health and with a care facility being directly to the south of this lot gives them the opportunity to be close to family when assisted care is needed. At the time of purchase, they were advised the parcel was zoned R1-80 and there shouldn’t be a problem with developing a single-family lot. The did submit a plat of survey instead of amending the preliminary plat due to the cost associated. They chose to file the plat of survey so they had to opportunity to plead their case in front of the Plan and Zoning Commission.

Bob Coluzzi, 655 27th Street stated they were told once they have an address, they will be able to build. Now that they have an address, they are being turned down and he doesn’t understand why.
CHAIRPERSON OPENED THE PUBLIC HEARING

Steve Mackintosh, 5410 SE 29th Street stated they purchased an adjacent parcel to the west in 2016. He wanted to be present tonight to show his support for Mitch Coluzzi as they plan to build a single-family home on the adjacent lot.

Greg Jones asked to see where Mr. Mackintosh’s parcel is located.

Steve Mackintosh Indicated his parcel was immediately to the west. He stated he’d rather have 1 neighbor rather than 20 neighbors.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Rocky Sposato asked if there has been feedback from the neighborhood association?

Jason Van Essen stated he hasn’t received any communication.

Rocky Sposato stated he had a conversation with the President of the Easter Lake Neighborhood Association and they do have concerns about 27th Street not being connected and utilities not being brought through. If they were to supply those, would that satisfy staff’s concerns with the Plat of Survey.

Jason Van Essen stated no. They would need bring in a preliminary plat showing the road connection and bring utilities through the parcel.

Greg Jones stated the commission will need to deny the request so they can come back with a preliminary plat showing the north to south road connection along with utilities to make it a public street.

COMMISSION ACTION:

Greg Jones made a motion to uphold the denial of the submitted Plat of Survey by the Permit and Development Center Coordinator.

THE VOTE: 9-0

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Item 6

Request from 3750 Grand, LLC (developer) represented by Kate Miller (officer) for review and approval of the following regarding the property located at 3750 Grand Avenue. The subject property is owned by Tursi, LC.

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

B) Rezone property from “R-3” Multiple-Family Residential District and “R1-80” One-Family Residential District to “PUD” Planned Unit Development.

C) Review and approval of the proposed “Thirty Seven Fifty on Grand” PUD Conceptual Plan, to allow for redevelopment of the existing vacant First Church of Christ Science with demolition of a portion and addition of an 8-story, 42-unit residential condominium tower with two levels being indoor parking. The building would have first floor permitted uses of restaurant, business or professional offices, studio or instructional service, assembly, and library or cultural exhibit.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to demolish the sanctuary and tower portion of the vacant First Church of Christ Scientist building. The northeast and northwest wings would be renovated as part of a redevelopment project that includes the construction of an 8-story residential building. The development would include a total of 105 parking spaces with 58 of the spaces being located within the building. A visitor parking lot with 15 spaces would be located in front of the building. A 32-stall parking lot would be located to the rear of the building for tenant parking. Carport structures would be provided for 21 of these stalls. The development would include a courtyard space between the remaining church wings, a patio at the northwest corner of the building, a pool area at the southwest corner of the building and a dog park space in the southeast portion of the property.

2. Size of Site: 2.93 acres.


4. Existing Land Use (site): Vacant church building.

5. Adjacent Land Use and Zoning:
North – “R-4”: Uses are multiple-family residential.

South - “R1-80”: Uses are single-family residential and Greenwood Elementary School.

East - “R-3”: Use is office.

West - “R-3”: Uses are multiple-family and single-family residential.

6. General Neighborhood/Area Land Uses: The site is located on the southeast corner of the Grand Avenue and 38th Place intersection. The Grand Avenue corridor contains a mix of multiple-family residential, institutional and commercial uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Salisbury Oaks Neighborhood and within 250 feet of the Greenwood Historic Neighborhood and the North of Grand Neighborhood. The neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on November 15, 2019 and the Final Agenda on November 27, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on November 15, 2019 (20 days prior to the hearing) and November 25, 2019 (10 days prior to the meeting) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Salisbury Oaks Neighborhood Association mailings were sent to R.J. Rademacher, 517 SW 42nd Street, Des Moines, IA 50312. The Greenwood Historic Neighborhood Association mailings were sent to Nicholas Larson, 127 34th Street, Des Moines, IA 50312. The North of Grand Neighborhood Association mailings were sent to Peter Tubbs, 642 39th Street, Des Moines, IA 50312.

8. Relevant Zoning History: None.


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.

The application, accompanying evidence and conceptual plan required shall be considered by the Plan and Zoning commission at a public hearing. The
Commission shall review the conformity of the proposed development with the standards of this division and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the conceptual plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the commission shall be referred to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Creating Our Tomorrow: The subject property is designated as “Neighborhood Mixed Use” and located in a “Community Node” on the Future Land Use Map. Plan DSM describes these designations as follows:

   Neighborhood Mixed Use: Small scale mixed use development typically located at the intersections 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 Node: Mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and office serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur if the underlining designation is Neighborhood Mixed Use.

2. PUD Standards: The following are standards from Section 134-704 of the City Code that provide the foundation that all PUD Conceptual Plans should be based on.

   A) All uses proposed in a PUD planned unit development district plan shall be in harmony with the existing or anticipated uses of other properties in the surrounding neighborhood and shall generally be in conformance with the city's land use plan. The design of a PUD development shall be based on harmonious architectural character; compatible materials; orderly arrangement of structures and open space; and conservation of woodlands, streams, scenic areas, open space and other natural resources.

   The proposed PUD Conceptual Plan allows for redevelopment of the vacant First Church of Christ Scientist building with demolition of a portion and addition of an 8-story, 42-unit residential condominium tower with two (2) floors of indoor parking and common space. Permitted first floor uses include business or professional office, studio or instructional service, assembly, and library or cultural exhibit. The application originally included restaurant as a permitted first
floor use. This has been removed from the application by the applicant. Staff understands that the developer does not intend to open the project with commercial uses. But, would like to give the future condominium owners association the ability to lease up to 2,000 square feet of first floor space if they decide to do so.

The new building would be contemporary in style with the 2-story base being sided with precast textured concrete panels with metal panel accents on the north (front) and west side facades. The exterior of the upper portions of the building would consist of glass and cast-limestone panels. The height of the base is comparable to the height of the remaining wings of the church. A large section of glass is proposed on the western portion of the front façade to memorialize the location and mass of the church tower. A substantial portion of the existing church front lawn, including several mature trees, would be maintained.

The subject property is located on the Grand Avenue corridor, which contains a mix of residential building types and densities along with varying levels of commercial uses. Additionally, the area contains an eclectic mix of architectural styles. The corridor between the 28th Street and 42nd Street intersections contains 11 tower type buildings ranging in height from 5 stories to 11 stories. The property is designated “Neighborhood Mixed Use” within a “Community Node” on the PlanDSM Future Land Use Map. The proposed development complies with PlanDSM and is in harmony with the character of the area.

B) Setbacks and other appropriate screens shall be provided around the boundary of a PUD development to protect the adjoining district properties. Only in exceptional circumstances shall such a setback be less than the amount of the setback which the adjoining district is required to maintain from the PUD development.

The base of the new building would be constructed behind the remaining wings of the church and would setback approximately 165 feet from the Grand Avenue property line. It would setback approximately 45 feet from the east property line, 45 feet from the closest point to the south property line, and 85 feet from the 38th Place property line. The base portion of the building is two (2) stories tall. The tower portion of the building would setback an additional 20 feet from the south property line. All other setbacks would match the base portion of the building. The following chart provides the building height measurements in feet and summarizes the proposed setbacks for the new building.

<table>
<thead>
<tr>
<th>BUILDING COMPONENT</th>
<th>HEIGHT (FEET)</th>
<th>PROPOSED SETBACK (FEET)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BASE</td>
<td>NORTH</td>
</tr>
<tr>
<td>Base</td>
<td>35</td>
<td>165</td>
</tr>
<tr>
<td>Tower</td>
<td>110.5*</td>
<td>165</td>
</tr>
</tbody>
</table>
NEAREST ADJOINING USE TO BUILDING | street | office | single-family dwelling | street
---|---|---|---|---
*This is the total height of the building including the base component.

For comparison, the “R-3” District requires a 30-foot minimum front yard setback, a 25-foot minimum side yard setback and a 35-foot minimum rear yard setback for buildings that are a maximum of 45 feet tall. An additional one (1) foot of building height is allowed per one (1) foot of additional setback with a maximum building height of 125 feet. The building would include an elevator bulkhead and rooftop mechanical space on top of the tower. Section 134-1296(c) of the Zoning Ordinance exempts these types of elements from counting towards building height maximums.

Therefore, per the “R-3” zoning district standards, the 110.5 feet tall portion of the building would need to be setback a minimum of 95.5 feet from Grand Avenue and 38th Place. The 110.5 feet tall portion of the building would need to be setback a minimum of 100.5 feet from the south lot line and a minimum of 75.5 feet from the east lost line. The proposed setbacks from the west, east and south lot lines would have required and “Exception” level of relief from the Zoning Board of Adjustment if development was pursued under the existing R-3 zoning.

The subject property is located on the Grand Avenue corridor, which contains a mix of residential building types and densities along with varying levels of commercial uses. The corridor from 28th Street to 42nd Street contains 11 tower type buildings ranging in height from five (5) stories to 11 stories. All but one of these building contains dwelling units except for the tower at Des Moines University. The following chart identifies each example and notes if it shares a property line with a parcel containing a single-family dwelling. If it does share a property line with a single-family dwelling then the distance that the tower element is setback from the shared property line is noted. These measurements are estimates calculated with the City’s GIS mapping system.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>ZONING</th>
<th>STORIES</th>
<th>ABUTS SINGLE-FAMILY DWELLING (SFD)</th>
<th>TOWER SETBACK FROM PROPERTY LINE SHARED WITH SFD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summit House</td>
<td>2880 Grand Ave.</td>
<td>R-4</td>
<td>5</td>
<td>yes</td>
<td>13 feet</td>
</tr>
<tr>
<td>3000 Grand Apts</td>
<td>3000 Grand Ave.</td>
<td>R-4</td>
<td>10</td>
<td>yes</td>
<td>110 feet</td>
</tr>
<tr>
<td>Project Name</td>
<td>Address</td>
<td>Zoning District</td>
<td>Setback</td>
<td>Screen</td>
<td>Height</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>--------------------</td>
<td>-----------------</td>
<td>---------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>3100 Grand Condos</td>
<td>3100 Grand Ave.</td>
<td>R-4</td>
<td>7</td>
<td>no</td>
<td>N/A</td>
</tr>
<tr>
<td>DMU Tower</td>
<td>3200 Grand Ave.</td>
<td>R-4</td>
<td>11</td>
<td>no</td>
<td>247 feet</td>
</tr>
<tr>
<td>Wesley – Grand Apts</td>
<td>3520 Grand Ave.</td>
<td>PUD</td>
<td>9</td>
<td>no</td>
<td>154 feet</td>
</tr>
<tr>
<td>Grand at 36th Condos</td>
<td>505 36th St.</td>
<td>R-4</td>
<td>5</td>
<td>no</td>
<td>N/A</td>
</tr>
<tr>
<td>3660 Grand Condos</td>
<td>3660 Grand Ave.</td>
<td>R-4</td>
<td>10</td>
<td>no</td>
<td>N/A</td>
</tr>
<tr>
<td>West Grand Towers</td>
<td>3663 Grand Ave.</td>
<td>R-4</td>
<td>11</td>
<td>yes</td>
<td>126 feet</td>
</tr>
<tr>
<td>Barbican Condos</td>
<td>3920 Grand Ave.</td>
<td>R-3</td>
<td>10</td>
<td>yes</td>
<td>72 feet</td>
</tr>
<tr>
<td>Four Thousand 4 Grand Condos</td>
<td>4004 Grand Ave.</td>
<td>R-3</td>
<td>6</td>
<td>yes</td>
<td>25 feet</td>
</tr>
<tr>
<td>The Wetherell</td>
<td>4024 Grand Ave.</td>
<td>R-3</td>
<td>6</td>
<td>yes</td>
<td>18 feet</td>
</tr>
<tr>
<td><strong>Proposed Project</strong></td>
<td>3750 Grand Ave.</td>
<td>PUD</td>
<td>8</td>
<td>yes</td>
<td>65 feet</td>
</tr>
</tbody>
</table>

Staff believes that the proposed setbacks are appropriate as they are comparable to other similarly situated developments along the Grand Avenue corridor. Section III of this report includes several recommended conditions of approval that address screening and site lighting levels.

C) A PUD development shall comply with all applicable city ordinances, specifications and standards relating to all dedicated street, sanitary sewer and storm sewer facilities and to surface drainage and floodwater retention.

The submitted Conceptual Plan identifies a bioretention basin in the southeast portion of the property. All necessary utilities are available in the adjoining rights-of-way. All 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.

The applicant is required to demonstrate compliance with the City’s stormwater management requirements to the satisfaction of the City’s Permit and Development Center during the review of any PUD Development Plan. Tree removal and mitigation calculations must be submitted with any PUD Development Plan in accordance with Section 42-550 of the Municipal Code.

D) The streets surrounding a PUD development must be capable of accommodating the increased traffic that would be generated by the new development. The development shall be designed to provide maximum feasible...
separation of vehicular traffic from pedestrian ways and recreational areas. If turning lanes or other forms of traffic controls within or adjacent to the development are deemed necessary by the city council, the developer shall provide the necessary improvements.

The subject site is located on the Grand Avenue corridor. The proposed level of density and traffic generation is expected on this corridor. A traffic study is not required for the proposed project as the anticipated vehicle trips generated by the project does not trigger review.

E) Off-street parking and loading spaces shall be provided as appropriate to the size and character of the development. Each off-street loading space shall be not less than ten feet in width and 25 feet in length. All off-street parking spaces shall be provided in accordance with the requirements of subsection 134-1377(g).

The development would include a total of 105 parking spaces with 58 of the spaces being located within the building. A visitor parking lot with 15 spaces would be located in front of the building. A 32-stall parking lot would be located to the rear of the building for tenant parking. Carport structures would be provided for 21 of these stalls. The primary access to the site would come from Grand Avenue. A secondary driveway would provide access from 38th Place. The building would have an overhead door on the east façade and on the south façade.

The typical parking requirement for multiple-family dwellings is 1.5 spaces per unit. For the potential commercial uses allowed, typical parking requirements range from 1 space per 150 square feet of floor area to 1 space per 400 square feet of floor area. The applicant has indicated that no more than 2,000 square feet of floor area is available for commercial use. A total of 14 parking spaces would be required if the entire 2,000 square feet was used for an assembly use, which requires the highest standard of 1 space per 150 square feet of floor area. This would bring the total required parking number to 77 spaces. The proposed development would provide an adequate amount of parking.

F) Where appropriate to the size and character of a PUD development, provision shall be made therein for open space for recreation and other outdoor uses, and for places of worship, convenience shopping and other community services.

The development would include a courtyard space between the remaining church wings, a patio at the northwest corner of the building, a pool area at the southwest corner of the building and a dog park space in the southeast portion of the property. Additionally, a substantial portion of the existing church front lawn, including several mature trees, would be maintained.

3. **Historic Preservation Ordinance:** The vacant First Church of Christ Scientist building meets the criteria for landmark designation set forth in Section 58-58 of the Historic Preservation Ordinance. Section 58-70 of the code requires the City
Council to determine if the proposed demolition of a landmark eligible property should be referred to the Landmark Review Board (LRB) for future study.

On November 4, 2019, by Roll Call 19-1760, the City Council voted to not send the matter to the LRB for further study. The building has been vacant for an extended period and suffered substantial water damage. There does not appear to be a feasible reuse for the sanctuary space given it size, configuration and condition. The project proposes to preserve approximately 10,036 square feet of the existing church building and would demolish the sanctuary portion, which is approximately 10,831 square feet.

The applicant is required to document and photograph the exterior and interior of the building and provide the City with a copy in coordination with Community Development Department staff. The applicant is also required to salvage for re-use as many fixtures and as much material as possible from the building. Provided that the applicant has conducted the documentation and salvage processes to the satisfaction of the Community Development Director, then issuance of a demolition permit in accordance with Section 26-303 and related plumbing permit in accordance with the Plumbing Code will be authorized.

4. Additional Information: The staff recommendation found in Section III of this report contains several common conditions of approval for development pertaining to refuse collection, utilities and meters. Additionally, there is a recommended condition that requires the applicant to work with staff to ensure that the notes listed on the Conceptual Plan are reflective of the intent of the drawings shown on the plan.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation.

Part B) Staff recommends approval of the proposed rezoning from “R-3" District and “R1-60" District to “PUD" District.

Part C) Staff recommends approval of the proposed Thirty Seven Fifty on Grand PUD Conceptual Plan subject to the following conditions:

1. Removal of the reference to restaurant as a permitted use from the Conceptual Plan.

2. Provision of a note that states, “no more than 2,000 square feet of floor area shall be utilized for commercial uses.”

3. The bulk regulation notes shall be updated to reflect the drawings shown on the Conceptual Plan to the satisfaction of the City’s Planning Administrator.
4. Provision of a note that states, “the finalized height and design of any fencing shall be determined during the review of any Development Plan” in place of the notes on Sheet 1 that provide maximum height and minimum opaqueness standards.

5. Provision of a note that states, “any Development Plan shall minimize the amount of pavement near the main entrance to the building to the extent possible.”

6. Provision of a note that states, “any Development Plan shall provide an identifiable pedestrian route from the main entrance of the building to the Grand Avenue sidewalk.”

7. Provision of a note that states, “landscaping and buffering shall be provided in accordance with the City’s Landscaping Standards in place at the time the Development Plan is submitted, or exceeded as illustrated on the Conceptual Plan or as determined necessary by the City’s Planning Administrator.”

8. Provision of a note that states, “all site lighting shall be directed downward and shielded from adjoining properties. Any pole mounted lighting along private walkways shall not exceed 15 feet in height and any pole mounted lighting in a parking area shall not exceed 20 feet in height.

9. Provision of a note that states, “direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 foot-candles for residential, 2.0 foot-candles for commercial). The Development Plan must contain illuminance models showing light levels throughout the site.”

10. Provision of a note that states, “all utility and similar service lines to buildings on the property shall be located underground.”

11. Provision of a note that states, “all overhead utility and similar service lines within the adjoining portions of the Grand Avenue and 38th Place rights-of-way shall be located underground.

12. Provision of a note that states, “all utility meters, transformers, ground-mounted equipment, and other utilities shall be placed along rear or side facades that are internal to the site to the satisfaction of the City’s Planning Administrator.

13. Provision of a note that states, “all reuse and recycling containers shall be stored within the building or within a trash enclosure constructed of masonry walls with solid steel gates as approved with any Development Plan.”
SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendations.

John “Jack” Hilmes asked if the developer has concerns about any of the recommendations.

Jason Van Essen stated he wasn’t aware of any concerns.

Kate Miller representing the developers, Harry and Pam Bookey, stated they are very excited about this project and they only have questions about the recommendations regarding requirements to underground utilities.

Jacqueline Easley asked if they agreed with staff recommendations 1-13?

Kate Miller stated they have questions about recommendations #10 and #11.

Jason Van Essen stated #10 would require undergrounding of utilities that serve the proposed building, which the developers already plan to do. Condition #11 states the developer will need to underground any utilities in the right of way adjoining the property.

Brad Hartman 1011 Locust Street, representing Hartman and Trapp Architecture firm stated they would like to address the utilities long 38th Place with City staff and MidAmerican.

Jason Van Essen stated the development plan will come to the commission and that’s something they can discuss then. Verbiage could be added to condition #11 stating “to the satisfaction of the planning administrator” which would give the applicant and staff time to review the utilities in the area.

CHAIRPERSON OPENED THE PUBLIC HEARING

Jason Palmer, 417 38th Place stated he has many concerns for this project, the main concern being how close this building will be to his house.

Jann Freed asked how close he is to this project.

Jason Palmer stated in R-3 zoning they would need to be set back 110 feet from his property line. The applicant is asking for a 65 feet setback in the PUD from his north property line. This project will devalue his property and privacy will be nonexistent. He has asked the developer to buy him out, for city to buy him out or a combination of the two but has been told that cannot happen. He would like the 110 feet setback with landscaping that has foliage year around along his north lot line.

(Jann Freed left)
Brad Hartman stated when they looked at other properties in the area, they have been right at the average for setbacks. They are going make this property a lot nicer than it is today and believe it will bring up the value of the surrounding area.

John “Jack” Hilmes asked if the church is closer than any structure they will build.

Brad Hartman stated yes. The church building is currently 12 feet from the south lot line of the subject property (north lot line of the Palmer property). The proposed parking structured parking will be setback 45 feet and the tower will be setback 65 feet with heavy landscape along the existing alley.

Jason Palmer stated the church doesn’t have windows and people staring down at his deck and backyard. He believes that church and this development proposal are completely different situations. He objects to the staff recommendations and asked the Plan and Zoning Commission to deny this project.

Kate Miller stated they have made a lot of changes after input from the surrounding neighbors. She believes when people are looking out the window, they will look out at Water Works Park, not down on Mr. Palmers residence.

Brad Hartman stated this tower will serve the area much better than an abandoned church and believes surrounding neighbors will love the final product.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Rocky Sposato stated Mr. Palmer has some valid concerns and believes the evergreen trees along the alley isn’t enough. He believes the tower being that close to Mr. Palmer’s property will not benefit the Palmer’s in any way and more discussion should transpire between the developer and Mr. Palmer.

Carolyn Jenison stated if you were to move this tower from 65 feet to 110 feet, future residents would still be able to look down into Mr. Palmer’s yard.

John “Jack” Hilmes stated he believes that no matter where you put this tower, there will be a privacy concern for Mr. Palmer.

**COMMISSION ACTION:**

Greg Jones made a motion for approval of Part A) the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation, Part B) **APPROVAL** of the proposed rezoning from “R-3” District and “R1-60” District to “PUD” District and Part C) **APPROVAL** of the proposed Thirty-Seven Fifty on Grand PUD Conceptual Plan subject to the following conditions:

1. Removal of the reference to restaurant as a permitted use from the Conceptual Plan.
2. Provision of a note that states, “no more than 2,000 square feet of floor area shall be utilized for commercial uses.”

3. The bulk regulation notes shall be updated to reflect the drawings shown on the Conceptual Plan to the satisfaction of the City’s Planning Administrator.

4. Provision of a note that states, “the finalized height and design of any fencing shall be determined during the review of any Development Plan” in place of the notes on Sheet 1 that provide maximum height and minimum opaqueness standards.

5. Provision of a note that states, “any Development Plan shall minimize the amount of pavement near the main entrance to the building to the extent possible.”

6. Provision of a note that states, “any Development Plan shall provide an identifiable pedestrian route from the main entrance of the building to the Grand Avenue sidewalk.”

7. Provision of a note that states, “landscaping and buffering shall be provided in accordance with the City’s Landscaping Standards in place at the time the Development Plan is submitted, or exceeded as illustrated on the Conceptual Plan or as determined necessary by the City’s Planning Administrator.”

8. Provision of a note that states, “all site lighting shall be directed downward and shielded from adjoining properties. Any pole mounted lighting along private walkways shall not exceed 15 feet in height and any pole mounted lighting in a parking area shall not exceed 20 feet in height.

9. Provision of a note that states, “direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 foot-candles for residential, 2.0 foot-candles for commercial). The Development Plan must contain illuminance models showing light levels throughout the site.”

10. Provision of a note that states, “all utility and similar service lines to buildings on the property shall be located underground.”

11. Provision of a note that states, “all overhead utility and similar service lines within the adjoining portions of the Grand Avenue and 38th Place rights-of-way shall be located underground to the satisfaction of the planning administrator.

12. Provision of a note that states, “all utility meters, transformers, ground-mounted equipment, and other utilities shall be placed along rear or side facades that are internal to the site to the satisfaction of the City’s Planning Administrator.”
13. Provision of a note that states, “all reuse and recycling containers shall be stored within the building or within a trash enclosure constructed of masonry walls with solid steel gates as approved with any Development Plan.

THE VOTE: 7-1-0 (Rocky Sposato opposed)

******************************************************************************
Committee and Director’s Reports: None

Meeting adjourned at 7:45pm