
ABSENT: Rocky Sposato

STAFF PRESENT: Erik Lundy, SuAnn Donovan, Glenna Frank, Judy Parks-Kruse and Tyler Hall.

John “Jack” Hilmes made a motion to approve the December 19, 2019 Plan and Zoning Commission meeting minutes. Motion Carried 11-0-2 (Steve Wallace and Greg Wattier abstained as they were not present for the December 19, 2019 meeting).

Jacqueline Easley noted that the applicant for item #2 had requested a continuance to the March 5, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

John “Jack” Hilmes made a motion to continue item #2 to the March 5, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

Jacqueline Easley noted that the applicant for item #3 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

Jann Freed made a motion to continue item #3 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

Jacqueline Easley asked if any member of the audience or the Commission desired to speak regarding consent agenda items #1 or #4. None were present or requested to speak.

Greg Jones made a motion to approve consent agenda items #1 and #4. Motion Carried 13-0

Jacqueline Easley noted that the applicant for item #7 has withdrawn their application.

Jacqueline Easley noted that the applicant for item #9 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

Dory Briles made a motion to continue item #9 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

Jacqueline Easley noted that the applicant for item #8 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.
Chris Pose, 317 6th Ave Ste. 300 stated the reason for continuance is that they want to give the neighborhood more time to review the new material that was sent out in the mail on Monday.

John “Jack” Hilmes made a motion to continue item #8 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

CONSENT AGENDA PUBLIC HEARING ITEMS

Item 1

Request from Jeff and Tonya Nicholson d/b/a P&P Small Engines (owners) for the following for property located at 905 & 909 East 27th Street and 916 & 917 East 27th Court. Additional subject property is owned by JNT Properties, LLC.

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

B) Amend PlanDSM Creating Our Tomorrow’s future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street. (21-2019-4.26)

C) Rezone property from “N3c” Neighborhood District to “MX3” Mixed Use District, to bring existing properties used for a small engine sales and service business into conformance with zoning regulations. (ZON2019-00238)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning to “MX3” District would bring all parcels associated with existing business (P&P Small Engines) under a common zoning classification. The parcels associated with the business at 2715 East University Avenue and 913 East 27th Street are currently zoned “MX3” District.

   While the proposed “MX3” District does not allow for any outdoor storage, the existing outdoor storage that is occurring on the parcel at 909 East 27th Street is allowed to continue in accordance with a Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130. Staff notes that the properties known as 905 East 27th Street and 916 & 917 East 27th Court are not permitted to have any outdoor storage at this time.

   Any expansion of the existing business, or any future development upon the premise, must be in accordance with a Site Plan as approved by the City’s Permit and Development Center. Any modification to, or expansion of, the outdoor storage occurring on the premise would be subject to the Zoning Board of Adjustment granting the necessary zoning appeal(s).
2. **Size of Site:** 33,500 square feet (0.77 acres).

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

4. **Existing Land Use (site):** The subject property portions of the commercial business (P&P Small Engines) at 2715 East University Avenue. The properties at 905 & 909 East 27th Street and 917 East 27th Court also each contain a single-family residential use.

5. **Adjacent Land Use and Zoning:**
   - North – “MX3”, Uses are P & P Small Engines and a single-family dwelling.
   - South – “N3c”, Uses are a levee system and City owned floodway.
   - East – “N3c”, Use is a single-family dwelling.
   - West – “MX1”, Use is the D.A.V. Thrift Store and parking lot.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the fringe of the East University major commercial corridor, where uses transition to low-density residential.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Fairground Neighborhood and within 250 feet of the ACCENT Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to the public hearing) and January 6, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the 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 January 10, 2020.

   The Fairground Neighborhood mailings were sent to Rick Trower, Laura Mundy, 2820 Logan Avenue, Des Moines, IA 50317, and the ACCENT Neighborhood mailings were sent to Kevin Scott Marken, 2109 East 28th Street, Des Moines, IA 50317.

   The applicant is scheduled to hold their neighborhood meeting on January 8, 2020. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

8. **Relevant Zoning History:** On October 22, 2012, the City Council rezoned the parcel known as 909 East 27th Street from “R1-60” One-Family Low-Density Residential District to the Limited “C-1” Neighborhood Retail Commercial District, subject to the following condition: “Screening of any outdoor storage that is
permitted."

On November 28, 2012, by Docket ZON2012-00130, the Zoning Board of Adjustment granted a Variance of the requirement that all storage of materials and equipment in the “C-1” District shall take place within a completely enclosed building and an amended appeal for an Exception of 5 feet less than the minimum required 10-foot setback from property zoned “Residential” District, to allow retention of outdoor storage of materials and equipment related to a lawn mower service business. These appeals are limited to the parcels known as 2715 East University Avenue and 909 & 913 East 27th Street. The approval is subject to the following conditions:

a) Any outdoor storage on the premises shall be in accordance with a Site Plan as approved by the City’s Permit and Development Center.

b) Any outdoor storage shall only occur on existing gravel material until December 4, 2015, which is three years from the signing of the Board’s Decision & Order. After December 4, 2015, any outdoor storage on the site shall only occur on a durable and dustless surface.

c) Any outdoor storage shall be setback at least 5 feet from any property line.

d) Any outdoor storage on the premises shall be screened by a 6-foot tall screen.

e) The engine on any equipment stored within the area shall remain idle while in the outdoor storage area.

f) Any fence constructed on the property shall be in accordance with any necessary permit issued by the Permit and Development Center.

The City’s new Zoning Ordinance took effect on December 15, 2019. This new Zoning Map designated 905 & 909 East 27th Street and 916 & 917 East 27th Court as “N3c” District. The applicant subsequently filed an application to rezone these parcels to “MX3” District, which is what the property (held in common) at 2715 East University Avenue and 913 East 27th Street.

9. **PlanDSM Land Use Plan Designation:** Community Mixed Use and Low Density Residential.

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

1. PlanDSM Land Use Plan: The City’s comprehensive land use plan designates 909 East 27th Street and 916 & 917 East 27th Court as “Community Mixed Use”. PlanDSM describes “Community Mixed Use” 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.

Therefore, the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court to “MX3” is compatible with the comprehensive land use plan.

The City’s comprehensive land use plan designates 905 East 27th Street as “Low Density Residential”. PlanDSM describes “Low Density Residential” as: Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

Therefore, the proposed rezoning of 905 East 27th Street to “MX3” District requires the future land use designation to be amended to “Community Mixed Use”.

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

III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court is in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use; and the proposed rezoning of 905 East 27th Street is not in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Low Density Residential.

Part B) Staff recommends approval of the request to amend PlanDSM Creating Our Tomorrow’s future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street.

Part C) Staff recommends approval of the request to rezone the property from “N3c” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. Any expansion of the existing business, or any future development upon the premise, shall be in accordance with a Site Plan as approved by the City’s Permit and Development Center.

2. Any outdoor storage on the property known as 909 East 27th Street (Lot 5 of Block 3 of Farwell Place) shall comply with the Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130.
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:

Greg Jones made a motion for APPROVAL of Part A) the Commission find the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court is in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use; and the proposed rezoning of 905 East 27th Street is not in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of Low Density Residential, Part B) APPROVAL of the request to amend PlanDSM Creating Our Tomorrow’s future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street and Part C) APPROVAL of the request to rezone the property from “N3c” Neighborhood District to “MX3” Mixed Use District, subject to the following conditions:

1. Any expansion of the existing business, or any future development upon the premise, shall be in accordance with a Site Plan as approved by the City’s Permit and Development Center.

2. Any outdoor storage on the property known as 909 East 27th Street (Lot 5 of Block 3 of Farwell Place) shall comply with the Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130.

THE VOTE: 13-0

Item 2

Request from Scot Dickerson (lessee) for the following for property located at 2415 Ingersoll Avenue. The subject property is owned by Sivi Properties, LLC.

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

B) Rezone property from “MX2” Mixed Use District to “MX3” Mixed Use District, to allow tenant space in the building to be used for animal service and for boarding for a pet day care business. (ZON2019-00239)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION
1. **Purpose of Request:** The applicant owns Style Paws, which is a pet focused business with locations at 1905 Ingersoll Avenue and in Clive. The existing Des Moines location offers pet grooming and retail products. The Clive location includes the same, but also offers pet daycare. The applicant is proposing to open a second location in Des Moines that offers pet daycare near the existing Ingersoll location.

The application includes the following business description:

“We are proposing using the space for day stay as well as an indoor dog park. West of the entry will be large dog and medium dog play area. East of the entry will be small dog play area. Each play area will include kennels for rest time as well. After our day stay closes at 5:00 PM we will then offer drop in play time using the space as an indoor dog park. Day stay hours of operation will be 7:00 AM to 5:00 PM, Monday through Friday. Drop in dog park hours will be 5:00 PM to 9:00 PM, Monday through Friday, and Saturday and Sunday from 10:00 AM to 4:00 PM.”

2. **Size of Site:** 94 feet by 140 feet (13,160 square feet or 0.302 acres).

3. **Existing Zoning (site):** “MX2” Mixed Use District.

4. **Existing Land Use (site):** The site contains a one story commercial building with 4,000 square feet of gross floor area.

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

   - **North** – “N5”; Uses are multiple-family and single-family residential.
   - **South** – “MX2”; Uses are restaurant and office.
   - **East** – “MX2”; Use is retail.
   - **West** – “MX2”; Use is office.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the Ingersoll Avenue corridor, which contains a mix of commercial and multiple-family residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Woodland Heights Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019 and by mailing of the Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to public hearing) and January 6, 2020 (10 days prior to initial public hearing) to the Woodland Heights Organization and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

   All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood
Development Division on the date of the mailing. The Woodland Heights Organization notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:**
   Community Mixed Use within a Neighborhood Node.

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

II. **ADDITIONAL APPLICABLE INFORMATION**

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

   **Community Mixed Use:** Small scale mixed use development, located on high capacity transit corridors or at the intersections of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

   **Neighborhood Node:** These nodes are the smallest in size and offer services that provide for basic daily needs of the local population in the surrounding neighborhood. May include restaurants, shops and smaller scale businesses. Residential development including low-medium and medium densities may occur.

The applicant is proposing to rezone the property from “MX2” District to the “MX3” District. The Zoning Ordinance states that the “MX2 is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” Building types allowed in this district include Storefront, Civic Building and Principal Use Parking Structure.

The Zoning Ordinance states that the “MX3 is intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobiles. This district accommodates higher intensity commercial uses at a smaller scale.” Building types allowed in this district include Storefront,
Commercial Cottage, Commercial Center, Civic Building and Principal Use Parking Structure.

The Ingersoll Avenue corridor is generally zoned “MX2” District, including the properties around the subject property. Staff believes that the proposed use is appropriate for the character of the area, but believes other uses that are allowed in “MX3” Districts but not in “MX2” Districts should be prohibited. Additionally, staff believes that building types allowed for any future redevelopment should be limited to those allowed in “MX2” Districts.

All boarding and exercise must take place within the building as proposed. Section 134-3.5.2 of the Zoning Ordinance requires 200 feet of separation from any “N” or “NX1” zoned property. The subject property adjoins property zoned “N5” District and is too small to provide 200 feet of separation anywhere on the property.

2. Planning and Design Ordinance: Any change in use of the property requires a site plan and for the property to be brought into conformance with all applicable standards of the Planning and Design Ordinance.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use” within a “Neighborhood Node.”

Part B) Staff recommends the subject property be rezoned from “MX2” Mixed Use District to “MX3” Mixed Use District, subject to the following conditions:

1. Permitted uses shall be limited to:
   a. Animal Services, Boarding; and
   b. Uses allowed, and as regulated by, the MX2 District.

2. Any signage shall be limited to that as allowed in the MX2 District.

3. Any development shall be in accordance with Planning and Design regulations as applicable to the MX2 District by Chapter 135 of the Municipal Code.

SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #2 had requested a continuance to the March 5, 2020, Plan and Zoning Commission meeting to allow additional time to conduct a neighborhood meeting. No member of the audience or the Commission requested to speak regarding this item.

John “Jack” Hilmes made a motion to continue item #2 to the March 5, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0
COMMISSION ACTION:

John “Jack” Hilmes made a motion to continue item #2 to the March 5, 2020 Plan and Zoning Commission meeting.

THE VOTE: 13-0

Item 3

Request from QSL Development, LLC (owner) represented by John Larson (officer) for review and approval of a Preliminary Plat “Woodbury” on property located in the vicinity of the 3401 block of East 56th Street, to allow the property to be divided into 84 lots for one-household development, two (2) lots for multi-household development, and outlots for stormwater management and/or open space. Additional subject property is owned by J Larson Homes, LLC.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed subdivision would allow the applicant to develop the property with mixed densities of residential development, including detached one household dwellings, multiple-household development and housing for residents with a physical or developmental disability.

2. Size of Site: 63.82 acres.


4. Existing Land Use (site): The northern portion is agricultural production land and the southern portion is timbered land.
5. **Adjacent Land Use and Zoning:**

   - **North** – “N1a”; Uses are Bethany New Life Church and an archery range business.
   - **South** – “N1a” and “F”; Uses are timbered land, agricultural production land and a farmstead with equestrian training and stables.
   - **East** - “OS” Open Space District & “MDR” Medium Density Residential (City of Altoona), Uses are U.S. Highway 65, timbered land, open space, and agricultural production land.
   - **West** – “N1a” & Brook Landing “PUD”; Uses are single-family dwellings and vacant land.

6. **General Neighborhood/Area Land Uses:** The site is located between along the west side of East 46th Street in an area that includes a mix of low-density residential, agricultural, and educational uses.

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 December 27, 2019. Notifications of the hearing for this specific item were mailed on January 6, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

8. **Relevant Zoning History:** The property was annexed into the City of Des Moines on June 25, 2009. At that time the Zoning of the property was designated as “A-1” Agricultural District.

   On August 5, 2019 by Ordinance No. 15,793 the City Council rezoned the property to Limited “R-3” Multiple-Family Residential District.

   On December 15, 2020 the existing Zoning became effective as part of the overall update the City’s Zoning Ordinance. The Zoning is reflective of the rezoning that occurred in August.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Medium Density Residential, Park and Open Space, and Development Control.

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.

III. ADDITIONAL APPLICABLE INFORMATION

1. Natural Site Features: The majority of the site consists of agricultural land with a timbered area on the southern portion. Development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code. There is also a stream with Floodplain in the southern portion of the property that will limit development with any Subdivision Platting or Site Plan Development.

   Sheet 9 of the submitted Plat includes the tree mitigation plan. In this instance, the canopy method was used to calculate the number of mitigation trees required at 245 required planting based on 488,898 square feet of canopy to be removed. The plan indicates that 168 trees would be planted at two per lot for the one household development and that 77 trees would be planted with the development for multi-household dwellings.

2. Utilities: There is public sanitary sewer provided along eastern and northern portion of the property. The submitted Plat proposes extending these into the street network to serve the individual lots. Public storm sewer is also proposed in the street network.

3. Drainage/Grading: The site drains generally from north and west to south and east. Any development of the property 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. A homeowners’ association may have to be established for the purposes of entering into a Stormwater Management and Facility Maintenance Agreement with the City for any necessary stormwater facilities.

   The developer has proposed modification and expansion of the existing pond on the property to accommodate a bulk of the stormwater detention necessary under the requirements. There is significant shaping proposed to provide over land flows to reach the basin. There are outlot areas proposed to convey the existing over land flows from the two acreages to the west to facilitate water flow and to prevent it from backing onto those properties and the proposed lots. Engineering staff is requesting clarifications on portions of the stormwater management improvements.

4. Traffic/Street System: A traffic study based on the proposed rezoning concept was prepared in accordance with the City’s traffic study policy. The study concluded no additional considerations were necessary with the proposed development of the site, and that the existing roadways and proposed network are sufficient.
The Engineering staff is requesting a full soils report to review street construction design with any public improvement plans. Traffic Engineering has made comments for the need to comply with street dimensions in accordance with the MoveDSM classifications. Also, Traffic has indicated a preference for all trail to be located within Right-Of-Way. Parks will need to review for easements needed for any future trail systems.

5. Fire Access: Fire prevention staff have indicated that the need for secondary access is necessary given the number of two-household units shown. Also, turnarounds need to be shown with all dead-end fire access roads.

III. STAFF RECOMMENDATION

Based on the need for resolution on fire access, stormwater, lot sizes and trail easement location, Staff seeks to meet with the developer to resolve these concerns before the Commission considers approval of the Plat. Therefore, staff recommends that the item be continued to the February 6, 2020 meeting of the Commission.

SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #3 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

Jann Freed made a motion to continue item #3 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

COMMISSION ACTION:

Jann Freed made a motion to continue item #3 to the February 6, 2020 Plan and Zoning Commission meeting.

THE VOTE: 13-0

Item 4

Request from ND Drake Multifamily, LLC (owner) represented by Michael Nelson (officer) for the following for property located at 2530 University Avenue and 1157, 1159, & 1161 26th Street.

A) Vacation of the following: (11-2019-1.30)

1) Adjoining north/south alley between 25th Street and 26th Street from University Avenue to a point 281 feet to the south.
2) Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26th Street.
3) Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th Street.

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

C) Amend PlanDSM Creating Our Tomorrow’s future land use designation from Low-Medium Density Residential to Neighborhood Mixed Use on property at 1157 26th Street.

D) Rezone property from “MX1” Mixed Use District and “N5” Neighborhood District to “MX2” Mixed Use District, to allow for a 4-story mixed used building with 136 household units and 6,000 square feet of ground floor retail/office use.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning would allow construction of a 4-story mixed-use development on the proposed site. The mixed-use development is proposed to consist of 136 residential units (65 micro, 43 studio, 12 one-bedroom, and 16 two-bedroom) and 6,000 square feet of commercial space. The proposed vacations would facilitate the development of the site.

2. Size of Site: 47,372 square feet (1.1 acre).

3. Existing Zoning (site): “MX1” Mixed Use District and “N5” Neighborhood District.

   MX1 is intended for the mixed-use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods.

   N5 is intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominantly in the Victorian Revival, and Arts and Crafts styles pursuant to House D building type.

4. Existing Land Use (site): The site consists of vacant land, a small metal structure, and public alley right-of-way.

5. Adjacent Land Use and Zoning:
North – “P2”; Use includes Drake University.
South – “N5”; Uses include single- and multiple-household residential.
East – “P2”; Use includes First Christian Church and parking lot.
West – “MX1”; Use includes a development under construction as a new hotel.

6. General Neighborhood/Area Land Uses: The subject property is located in Drake Neighborhood, which is an area consisting of a mix of single-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019 and by mailing of the Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to public hearing) and January 6, 2020 (10 days prior to public hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Drake Neighborhood Association notices were mailed to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311.

8. Relevant Zoning History: None.


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

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

1. PlanDSM Creating Our Tomorrow: The applicant is requesting that the future land use designation for the property at 1157 26th Street to be amended from “Low-Medium Density Residential” to “Neighborhood Mixed Use”. Plan DSM describes these designations as follows:

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

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

Staff believes it is appropriate to amend this subject property from Low-Medium Density Residential to Neighborhood Mixed Use as the proposed development indicates details that allow transition from University Avenue to the mix of single-household and multiple-household units within the neighborhood.

2. Site Plan Requirements: Any development would require compliance with all applicable site plan requirements. Applicable requirements include stormwater management, landscaping, and screening of adjoining residential properties. Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

3. Utilities: While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

4. Alley System: The subject north/south alley right-of-way provides access to one-household and multiple-household units between University Avenue and Cottage Grove Avenue and is accessed from both streets. The proposed vacation would impact the ability to provide adequate access to the properties with vehicular access via this alley. The provided site sketch indicates that the developer intends to keep access open to the alley south of the proposed development to Cottage Grove Avenue and via a new paved driveway from 26th Street. Staff recommends approval of the requested vacations subject to reservation of any necessary easements to allow public access to the alley from 26th Street.

5. 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.
6. **Parking:** Staff notes that the currently proposed number of parking spaces is not compliant with the zoning Ordinance. Staff recommends rezoning of the property to MX2 (already a part of this request) and discussions with the city’s engineering staff on how to achieve compliance.

Staff additionally notes that the proposed driveway from the parking lot to University Avenue does not include a pedestrian walkway and only two feet are available to provide that space. Staff notes that it is very likely even without a designated pedestrian walkway, pedestrians would still use this access regardless of provided safety measures. Staff recommends discussions with the city’s engineering staff regarding appropriate design elements to facilitate safe use of this space by pedestrians.

### III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26th Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

Part B) Staff recommends that the Commission find that the proposed rezoning is not in conformance with the PlanDSM Creating Our Tomorrow future land use map.

Part C) Staff recommends approval of the requested amendment to PlanDSM Creating Our Tomorrow Plan to revise the future land use designation from Low-Medium Density Residential to Neighborhood Mixed Use on property at 1157 26th Street.

Part D) Staff recommends approval of rezoning the subject properties from “MX1” Mixed Use District and “N5” Neighborhood District to “MX2” Mixed Use District.

### SUMMARY OF DISCUSSION

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

### COMMISSION ACTION:

Greg Jones made a motion for APPROVAL of Part A) approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26th Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

Part B) the proposed rezoning is not in conformance with the PlanDSM Creating Our Tomorrow future land use map, Part C) APPROVAL of the requested amendment to PlanDSM Creating Our Tomorrow Plan to revise the future land use designation from Low-Medium Density Residential to Neighborhood Mixed Use on property at 1157 26th Street and Part D) APPROVAL of rezoning the subject properties from “MX1” Mixed Use District and “N5” Neighborhood District to “MX2” Mixed Use District.

THE VOTE: 13-0

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NON-CONSENT AGENDA PUBLIC HEARING ITEMS

Item 5

City initiated public hearing regarding proposed amendments to the approved Zoning Ordinance in Chapter 134 of the City Code relating to Lodging – Short-Term Commercial Rental uses, non-conforming uses, separation distance requirements for Eating and Drinking Places – Bars uses in an MX2 Mixed Use District, and regarding proposed amendments to the approved Zoning Map relating to portions of Legacy PUD Districts that are erroneously shown as Flood Districts.

A) Determination as to whether the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) Adoption of proposed amendments to the approved Zoning Ordinance and approved Zoning Map. (10-2019-5.03)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed Ordinance to amend the approved Zoning Ordinance in Chapter 134 is attached.

Amendments relating to Short-Term Commercial Rental Lodging use in Section 134-3.5.12 [C] include the following:
- Allow a Short Term Commercial Rental Lodging use to be utilized for assembly use only if approved by the Zoning Board of Adjustment.
Plan and Zoning Commission  
Des Moines, Iowa  

• Require a Short Term Commercial Rental Lodging use owner or manager that resides outside of Polk County or any county contiguous to Polk County to designate an authorized management agent who is at least 18 years of age who and a resident of Polk County or any county contiguous to Polk County.
• Revise the required guest registration information that must be provided to the City upon request.
• Eliminate requirements for a minimum number of days that the Short Term Commercial Rental Lodging use must be occupied by the owner.
• Eliminate requirements on the total maximum number of days a Short Term Commercial Rental Lodging use can be rented annually.
• Clarify that one short term rental is allowed per single-household detached structure or structure containing between 2 and 9 households.
• Clarify that the rounding provisions for calculating the percentage of units in multi-household exclude the whole number “0”.

Amendments for Non-Conforming Uses provisions in Sections 134-7.1.4 and 134-7.2.5 include the following:

• Allow a non-conforming use to be re-established in a previous nuisance property if the nuisance is abated.
• Allow a structure containing a non-conforming one or two-household use that was conforming prior to December 14, 2019 to be re-established to the extent that it existed prior to damage or destruction, regardless of the extent or means of that damage or destruction.

Amendments to Table 134-3.1-2 regarding Alcoholic Liquor, Wine or Beer Sales correct the omission of a 150’ separation requirement from a church, school, public park or licensed child care facility for bars in MX2 districts.

Finally, maps are attached that show areas of existing PUD’s that were inadvertently zoned Flood District. The proposed Zoning Map Ordinance to rezone those specific areas from Flood District to Planned Unit Development District is also attached.

II. ADDITIONAL APPLICABLE INFORMATION

On October 16, 2019 the Des Moines City Council voted 6-1 to approve final consideration of Ordinance #15,816 (Chapter 134 - Zoning Ordinance), Ordinance #15,817 (Chapter 135 – Planning and Design Ordinance), Ordinance #15,818 (Zoning Map), and Ordinance #15,819 (Cross references in multiple code chapters). Those Ordinances became effective on December 15, 2019.

On December 16, 2019 City Council voted 7-0 to approve revisions to Chapter 134 and Chapter 135 pursuant to Ordinance #15,844 and Ordinance #15,845. Those Ordinances became effective on January 3, 2020.

The proposed amendments being considered are a combination of changes to short-term rental regulations as directed by City Council at a workshop on October 16, 2019.
and miscellaneous necessary revisions to Chapter 134 and the Zoning map that have been identified by staff since December 15, 2019.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the proposed amendments to the approved Zoning Ordinance and approved Zoning Map.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendations.

Suann Donovan, Neighborhood Inspections Administrator stated they passed the short-term rental regulations with a stipulation of the owner living in the property for 175 days before it could be a rental property. The industry thought that was too onerous so they held public meetings to come up with amendments. These amendments will allow the property to be rented for 365 days but they will need a Zoning Board of Adjustment approval, along with a rental certificate. They have also changed the number of rental units allowed in a Multi-Family Dwellings with hopes it will cap the rental prices and keep them from getting out of control.

Greg Wattier asked if it would be up to the owners of the multi-family to figure out who that short-term renter would be?

SuAnn Donovan stated it would be up to the owner or whoever comes in for a rental certificate first.

Greg Wattier asked how it would work if more than one person wanted a rental certificate within a multi-family dwelling?

SuAnn Donovan stated they would need seek a use variance from the Zoning Board of Adjustment if they wanted to exceed the cap for number of units in a multi-family dwelling.

CHAIRPERSON OPENED THE PUBLIC HEARING

Danielle Rocker, 714 53rd Street stated she started an Air BnB last May and have found it better than having a long-term rental property. She wants to thank the Council for all the work they have done and these new revisions should add a good balance and oversite to short-term rental properties.

Brad Podray, 4407 SE 6th Street stated he has rehabbed a few houses in Des Moines for long-term rental, one burned down and one was vandalized. He’s had much more success with shot-term rental. Because of the tourism industry and making more
money off Air BnB, he is able create jobs for people who have a business of maintaining and hosting Air BnB’s.

**David Lund**, 641 46th Street stated he currently has a neighbor who has converted their basement into rooms for rent and is renting rooms on the main floor as well. His concerns from what has been going on thus far are how people will be forced into compliance with City Code. If he could shut down the operation they have going on next door to him, he would not hesitate to do so.

**Carly Hamilton**, 678 45th Street read submitted letter verbatim (attached).

**Diane Graham**, 635 46th Street read submitted letter verbatim (attached).

**Thomas Curble**, 6630 Cody Drive, WDM stated this all comes down to the host and them being ones held responsible for what transpires at their properties. This needs to be a professionally ran business, not random people throwing up their home on the Air BnB website. The host needs to be aware of the regulations and put things in place to make sure their properties comply with those regulations.

**Vi Higgins**, 662 45th Street stated short-term rentals are like a party every night, no one is held responsible unless there is a responsible person on site at all time.

**Jennifer Baccam**, 400 Walnut Street stated this has been a wonderful experience for her. Rarely do they have people coming to party, it’s a lot of families coming to see relatives or going to a concert. This isn’t about making money, this is about showing people the City of Des Moines and how wonderful this community is.

**Glenna Frank**, stated there was no prior legal use of short-term rental under the old zoning Ordinance, therefore there is non-conforming use. Anyone that has been operating an Air BnB is operating illegally at this point and will need to seek a conditional use approval from the Zoning Board of Adjustment.

**Jann Freed** wanted to clarify that people operating under Air BnB are running it illegally?

**Glenna Frank** stated they wouldn’t have zoning rights operating under Air BnB and would need to seek a conditional use approval from the Zoning Board of Adjustment.

**Jacqueline Easley** asked who they should file complaints with?

**Glenna Frank** stated the City’s Zoning Enforcement Division.

**John “Jack” Hilmes** clarified they would need to seek conditional use approval from the Zoning Board of Adjustment and receive an occupancy permit?

**Glenna Frank** stated they would need to be in the correct zoning district, request a conditional use approval, receive a rental certificate and pay hotel/motel taxes.
Will Page asked what type regulations the Zoning Board of Adjustment has in regard to evaluating density?

SuAnn Donovan stated they will not evaluate density, they will evaluate if a property should be allowed to operate as a short-term rental. They will look at crowding, parking and other issues that would affect the neighborhood.

Will Page stated they don’t have a regulation to use as a tool to address the problems that people have raised?

SuAnn Donovan stated the Board could take those comments into consideration and deny the application.

SuAnn Donovan stated there was a comment made about short term rentals being allowed at 85 decimals, it is 65 decimals allowed in residential areas. This is a part of the City’s Noise Ordinance and not these regulations. The approved Ordinance also states they must supply the City with a local management agency, give that information to adjacent property owners and post that on the property itself. They are also required to post other information in the unit, when garbage is picked up, Snow Removal Ordinance and other relative ordinances so the tenants know what their responsibilities are.

Jann Freed asked if the people who do have concerns should file a complaint?

SuAnn Donovan states yes. The process would start with an investigation, determining it is a valid complaint and being used as a short-term rental. We would then issue a notice of violation and give the owner a chance to come in to the Zoning Board of Adjustment to seek the approval. At that time the neighboring owners within 250 feet will be notified and have the chance to voice their concerns at the public hearing. It would be up to the Zoning Board of Adjustment to grant approval of the use and then obtain a rental certificate. At any time they violate the terms and conditions of the Board’s order, we can take it back in and have it reconsidered.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page stated the questions around multi-family didn’t raise much opposition. When it comes to a short-term rental there seems to be a lot of questions and since this is the first time regulating these, we should do a thorough job rather than watering it down.

John “Jack” Hilmes stated a lot of work has been done to find common ground and give control to the City to avoid neighborhood problems like we have heard tonight. This will never be perfect, there will always be litigation and there will always be violators but he believes this is a good proposal.

Carolyn Jenison stated she is having a hard time seeing the difference from a year around Air BnB and an apartment building.

John “Jack” Hilmes stated he doesn’t see how it is effectively different.
Carolyn Jension asked if the regulations are the same for Air BnB’s as they are for a house or apartment being rented out year around. They will have City inspections come into the property?

SuAnn Donovan stated yes.

COMMISSION ACTION:

Greg Jones made a motion for approval of Part A) the Commission find the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan and Part B) APPROVAL of the proposed amendments to the approved Zoning Ordinance and approved Zoning Map.

THE VOTE: 12-1-0 (Will Page voted in opposition)

(Jann Freed left at 7:15)

Item 6

Request from 2701 Ingersoll, LLC (owner) represented by Todd Millang (officer), for review and approval of a Site Plan “Millang Retail Center” under design guidelines for “NPC” Districts on property at 2701 Ingersoll Avenue, to allow development of the property with a 5,850-square foot commercial center.

(10-2020-7.42)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to redevelop the site with a 5,850-square foot commercial center.

2. Size of Site: 25,560 sq. ft. or 0.587 acres.

3. Existing Zoning (site): The subject property was zoned “NPC” Neighborhood Pedestrian Commercial District and “FSO” Freestanding Signs Overlay District at the time the application was submitted and is being reviewed under these regulations. The property is currently zoned “MX2” Mixed Use District.

4. Existing Land Use (site): Convenience store with fuel sales.

5. Adjacent Land Use and Zoning:
North – “N5” (R1-60 at time of submittal); Uses are single-family dwellings.

South – “MX2” (NPC at time of submittal); Uses are restaurants and retail.

East – “MX2” (NPC at time of submittal); Use is a multi-tenant commercial building containing bar, restaurant and service uses.

West – “MX2” (NPC at time of submittal); Use is Louie’s Floor Covering.

6. General Neighborhood/Area Land Uses: The subject property is located on the Ingersoll Avenue corridor in the Woodland Heights Neighborhood. The surrounding area generally consists of a mix of commercial, multiple-family residential and single-family residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Woodland Heights Neighborhood. All neighborhoods were notified of the January 16, 2020 Commission meeting by mailing of the Preliminary Agenda on December 27, 2019 and a Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on November 8, 2019 (10 days prior to the November 21, 2020 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 site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Woodland Heights Neighborhood Association notices were mailed to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

8. Relevant Zoning History: None.


   Community Mixed Use: Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specially retail that attracts regional customers.

   Neighborhood Node: These nodes are the smallest in size and offer services that provide for basic daily needs of the local population in the surrounding neighborhood. May include restaurants, shops and small-scale businesses. Residential development including low-medium density and medium densities may occur.

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

1. An unusual lot shape, size, topography or double frontage. A lot over one acre in size shall always be considered to be of unusual size;
2. A need to facilitate a smooth transition between existing developments in the vicinity;
3. A need to accommodate existing development;
4. A need to preserve an existing building; or
5. A use with unique design requirements.

II. ADDITIONAL APPLICABLE INFORMATION

1. NPC Design Guidelines: These additional design guidelines are applicable to review of any Site Plan within an “NPC” district.

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

      The proposed building would sit at the property line along Ingersoll Avenue, which complies with this standard.

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

      Forty-nine percent (49%) of the front elevation would consist of windows.

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

      All three tenant spaces would have a door that faces Ingersoll Avenue.

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

      The building would primarily be sided with brick. Portions of the west side and north rear facades would be sided with cement board panels designed to mimic the glass and aluminum storefronts found elsewhere on the building.

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

The building would have 90 feet of frontage along Ingersoll Avenue. It would have three tenant spaces and would be visibly divided into five segments by brick columns.

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

The building would occupy 50% of the Ingersoll Avenue frontage, which complies with this standard.

7. Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:

a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).

The Site Plan includes 42 off-street parking spaces. The Zoning Ordinance typically requires 1 parking space per 400 square feet of gross floor area for retail and 1 parking space per 150 square feet of gross floor area for restaurant uses. The applicant intends to lease space to at least one restaurant, but is unsure of what other uses may occupy the building. Occupying the entire 5,850-square foot building with restaurants would require 39 parking spaces. However, the parking standards for the “NPC” District are 40% less than the typical requirement so the required parking would be reduced to 24 parking spaces. The Site Plan complies with this standard even if the entire building is occupied by restaurant uses, which has greater parking requirements than retail and office uses.

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

The proposed 42 parking spaces would exceed the 39 parking spaces typically required by Section 134-1377 of the Zoning Ordinance. Staff believes that the three (3) additional spaces are inconsequential in this case and that the proposal meets the intent of this guideline.

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

The proposal complies with this standard, as all parking stalls would be located behind the front wall of the building along Ingersoll Avenue.

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

*Shared parking is not proposed.*

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

*The Site Plan does not identify on-street parking spaces. It appears that there is enough space for three (3) to four (4) vehicles to park on-street.*

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

*Tandem parking is not proposed.*

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

*The Site Plan includes trees and shrubs along the east and west perimeters of the property. Plantings need to be provided along the north perimeter of the site as well.*

*Providing Ingersoll Avenue Streetscape improvements is a requirement that is applied to site plan for projects along the corridor. Depending on the timing of the applicant’s project, they might able to coordinate with a planned City project that will construct streetscape improvements in the area. Staff will work with the applicant to explore this further.*

*Staff recommends approval subject to the conditions listed in Section III of this report.*

8. The following bulk regulations should be observed:
   a. Minimum lot area Mixed-use project, 10,000 square feet, No minimum requirement for permitted nonresidential uses.
   b. Minimum lot area per dwelling unit multiple dwellings, 2,000 square feet.
   c. Front yard: minimum of zero feet.
   d. Side yards: minimum of zero feet.
   e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.

   *The proposed development complies with these guidelines.*

f. Height: minimum of 15 feet, maximum of 45 feet.
The building would be 20 feet tall, which complies with this standard.

g. Number of stories:
   • Residential uses, a maximum of four stories.
   • All other permitted uses, a maximum of two stories.

The proposed development complies with this guideline.

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

All signage must comply with the Zoning Ordinance and be installed in accordance with a sign permit issued by the Permit and Development Center. The Site Plan does not identify any monument signs.

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

N/A.

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 to the satisfaction of the City’s Permit and Development Center.

3. Access: The property to the west has easement rights to portions of the subject property. These rights allow the neighbor’s awning and eastern parking stalls to extend onto the subject property, as well as provide for a 20-foot by 20-foot truck maneuvering area for access to an overhead door on the east side of the neighbor’s building. The submitted Site Plan accounts for these easement rights. In addition, it would allow traffic from the neighbor’s property to use the subject property for exiting as the neighbor’s parking lot is laid out for one-way traffic.

Staff believes that for a Site Plan to be approved that provides shared access to separate parcels that the owners of both parcels must grant each other cross access easements. The owner of the neighboring parcel (Louie’s Floor Covering, Inc.) has indicated to staff that they will not grant an access easement to the applicant. If easements are not granted, then staff believes it is necessary for the applicant to install a barrier that will keep vehicles from trespassing.

III. STAFF RECOMMENDATION

Staff recommends approval of the request subject to the following conditions:

1. Compliance with all administrative review comments of the City’s Permit and Development Center.
2. Provision of the Ingersoll Avenue Streetscape improvements along the frontage of the property to the satisfaction of the Planning Administrator.

3. Review and approval of the finalized landscaping plan by the Planning Administrator. The finalized landscaping plan shall include plantings along the north perimeter of the site.

4. The property owner is responsible for installing new privacy fencing along the north property line at any time that the existing fence is damaged or removed.

5. Any dumpster enclosure shall be constructed with masonry walls that match the building and solid steel gates.

6. Window tinting shall be minimized to the extent possible so a reasonable level of visibility into the building from the public realm is provided to the satisfaction of the Planning Administrator.

7. All rooftop mechanical equipment shall be screened on all sides with material that is equal to the height of the equipment and that is architecturally compatible with the building to the satisfaction of the Planning Administrator.

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

9. All utility and similar service lines to the building shall be located underground.

10. All overhead utility and service lines located in the adjoining Ingersoll Avenue right-of-way shall be undergrounded.

11. 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 private parking lot shall not exceed 20 feet in height.

12. Provision of a physical barrier separating the parking lot from the parking lot of the property to the west to the satisfaction of the Planning Administrator, unless cross access easements are granted by both property owners.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendations.

Greg Wattier asked why staff wants condition #12?

Erik Lundy stated there could be encroachment problems with the adjoining property.

Greg Wattier asked what the height requirement is?
Erik Lundy states it doesn’t mandate to be above one story but does seek to be between 2 and 4 stories in the “NPC” Design Guidelines.

Bart Turk, representing Civil Engineer Consultants stated the issues they are having is with Louie’s Floor Covering and the parking easements that are currently in place. He also has a Right-Of-Way easement so he can unload his truck. Louie’s and Todd Milang have been working together on an agreement and they would honor the parking and Right-Of-Way easement Louie’s has in place but Louie’s isn’t willing to grant Todd Milang an easement for his development. They (the developer) agree will all 12 recommendations in the staff report.

Greg Wattier asked how they would comply with condition #12.

Bart Turk stated they would provide an island within the access to prevent cross access of vehicles and if Louie’s would agree to 90-degree parking he could pull his truck around the Milang development and back up into their dock.

Greg Wattier asked if condition #12 was removed, would it be the owner’s intent to put an edge there where Louie’s clientele couldn’t cross or keep it the way it is.

Bart Turk stated they would end up closing it off.

Tyler Dingle, Representing Todd Milang stated if they can’t agree on a cross access easement, they will provide that barrier. Ownership’s preference would be to move the easement further into Todd Milang’s property and provide Louie’s that 90-degree parking to allow 2-way traffic. This would also allow for removal of the third access point.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Lyla Dozier, 741 27th Street stated the people that live in the area are very happy about this development. This is the 3rd fence that has been put along Linden and wants to make sure the owner is aware of the wear and tear that fence goes through. The neighbors would also like the fence to wrap around the northeast corner in an L-like shape.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Dory Briles made a motion for approval of the request subject to the following conditions:

1. Compliance with all administrative review comments of the City’s Permit and Development Center.
2. Provision of the Ingersoll Avenue Streetscape improvements along the frontage of the property to the satisfaction of the Planning Administrator.
3. Review and approval of the finalized landscaping plan by the Planning Administrator. The finalized landscaping plan shall include plantings along the north perimeter of the site.

4. The property owner is responsible for installing new privacy fencing along the north property line at any time that the existing fence is damaged or removed.

5. Any dumpster enclosure shall be constructed with masonry walls that match the building and solid steel gates.

6. Window tinting shall be minimized to the extent possible so a reasonable level of visibility into the building from the public realm is provided to the satisfaction of the Planning Administrator.

7. All rooftop mechanical equipment shall be screened on all sides with material that is equal to the height of the equipment and that is architecturally compatible with the building to the satisfaction of the Planning Administrator.

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

9. All utility and similar service lines to the building shall be located underground.

10. All overhead utility and service lines located in the adjoining Ingersoll Avenue right-of-way shall be undergrounded.

11. 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 private parking lot shall not exceed 20 feet in height.

12. Provision of a physical barrier separating the parking lot from the parking lot of the property to the west to the satisfaction of the Planning Administrator, unless cross access easements are granted by both property owners.

**THE VOTE:** 12-0

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(Greg Jones left at 7:40)

Item 7

Request from 301 Grand, LC (owner) represented by Kent Mauck (officer), for an appeal of a Site Plan "RDG Planning & Design Remodel" that was denied administratively for property located at 301 Grand Avenue, to allow waiver of the requirement for a street light fixture replacement with a black fixture type with
banner-strength pole and proper footing, and to include reinstallation of electronic parking directional sign on 3rd Street.

(10-2020-7.50)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: A Site Plan for the subject property was determined necessary when the subject property owner initiated significant interior renovations. The cumulative value of improvements to the site exceeded 50% of the existing building’s value. As a result, the entire site was required to be brought into conformance with the Site Plan Ordinance. The subject property owner has fulfilled the necessary updates including two tree planter cut-outs, landscaping, a pedestrian bump-out, an above-ground planter and bicycle racks to bring the site plan into conformance. The subject property owner is now requesting waiver of the requirement to replace the street light fixture on 3rd Street with a black one with a banner-strength pole and proper footing and reinstallation of the existing electronic parking directional sign.

2. Size of Site: 0.501 acre (21,845 square feet).

3. Existing Zoning (site): “C-3” Central Business District, “CDO” Capitol Dominance Overlay District, “D-O” Downtown Overlay District, “FSO” Freestanding Sign Overlay District, and “GGP” Gambling Games Prohibition District. This Site Plan was submitted under the previous Site Plan Ordinance.

4. Existing Land Use (site): The subject property contains a 35,067-square foot design firm building.

5. Adjacent Land Use and Zoning:

North – “C-3”; Use is an office building and parking lot.
South – “C-3”; Uses include Grand Avenue right-of-way and a city-owned parking garage.
East – “C-3”; Use is Brownstones on Grand multiple-family residential.
West – “C-3”; Uses include Koch Brothers retail and warehouse building and Steinman Family Physicians medical office building.

6. General Neighborhood/Area Land Uses: The subject property is located in Downtown Des Moines in an area consisting of a mix of multiple-family residential, commercial, retail, office, and entertainment uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Downtown Des Moines Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019 and by mailing of the Final Agenda on January 10, 2020. Additionally, separate
notifications of the hearing for this specific item were mailed on January 6, 2020 (10 days prior to public hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Downtown Des Moines Neighborhood Association notices were mailed to Peter Erickson, 214 Watson Powell Jr. Way, #505, Des Moines, IA 50309.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown 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.
11. **Downtown Overlay District Design Guidelines:** Taking into consideration 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 in consideration of the criteria set forth in Chapter 18B of the Iowa 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 such design regulations and the following guidelines.

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 site plan requirements fulfill the vision of the “What’s Next Downtown Plan” through improved site details such as landscaping, pedestrian-oriented design such as sidewalk bump-outs, tree cut-outs, above-ground planters, bicycle racks, and black banner-strength street light fixtures, pole, and footings. The Downtown District Overlay policy was designed to ensure that requirement of upgrading street lights to black light fixtures and poles would be incremental and occur at the same time as adjacent investments in downtown development.*

*Black street light fixtures and poles are the desired development pattern in the downtown. In general, development is expected to upgrade street lights in adjoining rights-of-way. The applicant has not demonstrated that unique circumstances not of their own making keep them from upgrading the light fixture and pole and reinstalling the electronic parking directional sign.*

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 applicant has conserved existing buildings, which is consistent with sustainability goals.*

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

*The development is located downtown with existing pedestrian infrastructure providing connectivity for pedestrian circulation that has been generally improved by the applicant as part of the overall site improvements.*

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

*The applicant has already installed plantings throughout the site in accordance with the site plan requirements.*
E) Where feasible, projects should provide outdoor spaces for people gathering.

*No outdoor gathering space is proposed.*

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.

*The applicant has already provided bike racks on the site.*

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

*The buildings in the site plan are existing structures of 3 stories or less. No modifications are proposed to the heights.*

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).
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.
4. For commercial and mixed-use buildings, at least 70 percent of the building frontage should be within one foot of the property line.
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.
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 existing buildings are setback 0 feet from the front property lines and occupy 73.3% (108.5 feet) of the 148 feet of frontage along 3rd Street.*

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

*No outdoor storage 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.

*The subject structures and use are existing and this requirement is already met.*
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.

_The applicant has already provided street trees and planter beds in accordance with the site plan requirements._

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

_No overhead doors or warehouse use are proposed._

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.

_Not applicable._

N) Gas stations/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.

_Not applicable._

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.

_Street curb cuts are not proposed._

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

_Not applicable._

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.

_Not applicable._

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.

_Not applicable._
II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Traffic & Transportation:** The cumulative value of improvements to the site exceeds 50% of the existing building’s value. As a result, the entire site must be brought into conformance with the Site Plan Ordinance. This includes provision of black street light fixtures and metal poles and reinstallation of electronic parking directional sign on 3rd Street.

City policy to ensure responsible handling of taxpayer money states that any site improvements that impact or require updates to the adjacent right(s)-of-way to a subject site should be installed and paid for by the subject property owner/developer. This project requires the improvement of the streetlight to a black street light fixture and metal pole, as well as reinstallation of the existing electronic parking directional sign. Compliance with city policy on this project would be consistent with requirements and expectations of property owners and projects citywide.

2. **Staff Rationale:** When a significant investment is made in a property, compliance with existing Building Codes and site development standards is required and would be consistent with requirements and expectations of property owners and projects citywide. Staff believes that it is in the best public interest to uphold these standards. The Downtown District Overlay policy is designed to ensure downtown street lights are upgraded to black light fixtures and poles incrementally and at the same time as adjacent investments in downtown development. Black street light fixtures and poles are the desired development pattern in the downtown. In general, properties undergoing development are expected to upgrade street lights in adjoining rights-of-way. The current light fixture and pole are not compatible with the long-term objectives of the Downtown District Overlay and the electronic parking directional sign provides important information to the public daily.

The subject property owner has fulfilled the necessary updates including two tree cut-outs, landscaping, a pedestrian bump-out, an above-ground planter and bicycle racks to bring the site plan into conformance. The subject property owner is now requesting waiver of the requirement to replace the street light fixture on 3rd Street with a black one with a banner-strength pole and proper footing and reinstallation of the existing electronic parking directional sign.

Staff has evaluated the appellant’s proposal and, as the applicant has already improved site elements, believes it is reasonable for the applicant to upgrade the street light fixture on 3rd Street with a black fixture type with banner-strength pole and proper footing and the electronic parking directional sign be reinstalled. The applicant has not demonstrated that unique circumstances not of their own making keep them from upgrading the light fixture and pole and reinstalling the electronic parking directional sign.

An affirmative vote of at least eight (8) Commission members is required to modify the administrative decision to deny the Site Plan, per Chapter 82, Article V of the City Code.
III. STAFF RECOMMENDATION

Staff recommends denial of the request to waive the requirement for a street light fixture replacement with a black fixture type with banner-strength pole and proper footing, and to include reinstallation of electronic parking directional sign on 3rd Street.

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

Jacqueline Easley noted that the applicant for item #7 has withdrawn their application.

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Item 8

Request from Hope Ministries Center for Women and Children (applicant), represented by Leon Negen (officer), for the following requests on property located at 3800 East Douglas Avenue. The subject property is owned by Experience Church of the Open Bible.

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


C) Rezone property from “R1-60” One-Family Low-Density Residential District to “PUD” Planned Unit Development District. (ZON2019-00236)

D) Approval of a PUD Conceptual Plan “Hope Ministries Center for Women and Children”, to allow the existing church to be converted to a 50-bed shelter for the homeless and 50-bed supervised group residence for only women and children. The proposed use would also include classroom, office, and daycare space.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The owner is seeking to repurpose the existing church building use for a 50-bed emergency shelter and a 50-bed supervised group residence use for women and children only. Other supporting uses to be incorporated include a chapel, dining hall, kitchen, daycare, training classrooms, and administrative offices. The project would propose removal of the original
Douglas Elementary School building and provide a two-story, 16,000-square foot building addition.

2. **Size of Site**: 5.49 acres.

3. **Existing Zoning (site)**: “R1-60” One-Family Low-Density Residential District and “FSO” Freestanding Signs Overlay District. The application for rezoning was filed prior to December 15, 2019 and is therefore being considered under the Zoning Ordinance effective at that time. Should the City Council deny the application for rezoning, the zoning of the property would become “P2” Public, Civic, and Institutional District.

4. **Existing Land Use (site)**: 43,387-square foot church use.

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

   **North** – “MX3” & “RX1”, Uses are one household dwelling, Iowa State Bank branch bank, and a limited food/retail store use.

   **South** – “N3a”, Uses are one household dwelling.

   **East** – “RX1” and “N3a”, Uses are multi-household dwellings and one household dwellings.

   **West** – “MX3”, Uses are vacant land and a vehicle sales and service – vehicle maintenance/repair – minor use (car wash).

6. **General Neighborhood/Area Land Uses**: The property is located along the Hubbell Avenue, U.S. Highway 6 corridor with a mix of commercial industrial and residential uses.

7. **Applicable Recognized Neighborhood(s)**: The subject property is located within the Sheridan Gardens Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on December 27, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior) and January 6, 2020 (10 days prior to the scheduled hearing) to the Sheridan Gardens Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the proposed rezoning. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on January 10, 2020.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Sheridan Gardens Neighborhood Association notices were sent to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317. The applicant conducted a neighborhood meeting on January 6, 2020. A summary of that meeting will be provided by the applicant at the meeting.
8. Relevant Zoning History: N/A.


10. Applicable Regulations: Taking into consideration Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning regulations or zoning district boundaries 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 recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. 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. Drainage/Grading: Any addition of impervious area (buildings or paving) to 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. The Engineering review staff has indicated that the stormwater management statement needs to be revised to reflect compliance with policies adopted for all Development Plans.

2. Utilities: All necessary utilities are available to the site. There is public sanitary sewer within East Douglas Avenue and East 38th Street. There is public water main available within East Douglas Avenue. The public storm sewer is available from an intake within Hubbell Avenue.

3. Landscaping/Open Space: The proposed open space with the demolition and addition would be approximately 69% of the site. While the addition wouldn’t typically trigger compliance with current landscape standards, the proposed Conceptual Plan provides for standards for open space, parking interior lot, parking perimeter lot as applicable for “C-2” Districts. There is not a proposed bufferyard standard for where parking abuts one household development to the east. Staff believes that the bufferyard standard for “C-2” Districts should be added. The submitted Plan indicates that no trees are proposed to be removed. Staff believes
the statement of compliance with the City’s Tree Removal and Mitigation Ordinance for any future Development Plan be added to the document.

4. **Streets/Sidewalk:** The proposed use and expansion of the building is not anticipated to generate enough additional traffic to require any improvements to the surrounding street network. Public sidewalk would need to be added along Hubbell Avenue as part of any Development Plan.

5. **Parking/Access:** The proposed Conceptual Plan proposes to maintain the one existing drive entrance from East Douglas Avenue. Parking requirements for shelters are one space per two supervisors or employees and one per 15 beds. Parking requirements for supervised group residence are one parking space per 8 beds, as well as the one space per two supervisors or employees. The submitted Conceptual Plan only provides the standard for the shelter. This needs to be revised to divide the proposed beds out between shelter for the homeless and supervised group residence. This would change the total required spaces from 17 to 21. There are currently 68 spaces proposed on the Conceptual Plan.

6. **Urban Design:** The proposed addition would consist of building materials that are similar to the existing facility. This includes brick, glass, and cement board-type siding to match the existing building. The proposed two-story addition would be built on the west side of the building, 80 feet from the west property line. Staff does not believe that the proposed two-story form would put the building out of balance with the mass and scale of the surrounding neighborhood. Due to the grade, it would have a lower profile than the portion of the existing building to be retained. A note must be added to require architectural screening of all rooftop mechanical units on any addition. Also fencing details need to be provided for any existing fencing to be retained or any fencing to be permitted.

7. **PlanDSM:** The proposed Medium Density Residential designation would accommodate the rezoning to “PUD” with allowance for the number of beds for shelter for the homeless and supervised group residence.

Staff believes that the proposed amendment would be appropriate as a repurposing of an existing institutional building and site and would also further goals to provide housing for a range of housing type needs throughout the community. With the reuse of the building and the location of the building at the fringe of the neighborhood along a high-volume traffic corridor, staff believes the site is an appropriate location for such a facility minimizing the impact on nearby neighborhood.

Any PUD Development Plan moving forward would be required to be reviewed by the Plan and Zoning Commission and the City Council in accordance with new provisions for Legacy PUD-zoned areas.
III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to “PUD” Planned Unit Development be found not in conformance with

Part B) Staff recommends approval of the requested amendment to PlanDSM Creating Our Tomorrow to revise the future land use designation from Public/Semi-Public to Medium Density Residential.

Part C) Staff recommends approval of the requested rezoning from “R1-60” One-Family Low-Density Residential to “PUD” Planned Unit Development.

Part D) Staff recommends approval of the proposed PUD Conceptual Plan for Hope Ministries Center for Women and Children, subject to the following revisions:

1) Revision of the Permitted Land Uses to clearly designate that there will be a maximum of 50 beds for emergency shelter for the homeless use and 50 beds for supervised group residence use, and that they be available only for women and children residents.
2) Addition of a note that any Development Plan shall comply with all Tree Preservation and Mitigation Ordinances.
3) Revision of the stormwater management statement to reflect compliance with the minimum requirements in the City’s Site Plan policies.
4) Provision of minimum bufferyard standards in the landscaping requirements as applicable to “C-2” Districts as part of any off-street parking areas abutting residential property.
5) Revision of the parking standards to define parking requirements as they are required for shelters for the homeless and for supervised group residences.
6) Provision of a note requiring architectural screening of any rooftop mechanical units as part of any building addition.
7) Provision of fencing details for all existing and proposed site fencing to be permitted. Fencing should be decorative iron type or black clad chainlink. Any screen fencing should be solid wood or architectural panels.

SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #8 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

Chris Pose, 317 6th Ave Ste. 300 stated the reason for continuance is that they want to give the neighborhood more time to review the new material that was sent out in the mail on Monday.

John “Jack” Hilmes made a motion to continue item #8 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0
COMMISSION ACTION:

John “Jack” Hilmes made a motion to continue item #8 to the February 6, 2020 Plan and Zoning Commission meeting.

THE VOTE: 13-0

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Item 9

Request from Newbury Living (applicant) represented by Frank Levy (officer) for the following for property located at 3801, 3721, 3707 and 3705 Grand Avenue and 3810 Ingersoll Avenue. The subject property is owned by 3801 Grand Associates, LP; Arbor Cooperative Housing Association; and Eureka Group, LLC.

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

B) Rezone property from “R-4” Multiple-Family Residential District and “NPC” Neighborhood Pedestrian Commercial District to “PUD” Planned Unit Development District. (ZON2019-00237)

C) Approval of a PUD Conceptual Plan “3801 Grand Avenue”, to allow development of a 4-story 55-unit independent senior living apartment building, in addition to an existing 4-story 35-unit independent senior living apartment building, an existing 3-story 55 unit assisted living apartment building, and an existing 2-story 5,720-square foot office building

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The applicant is proposing to demolish an existing multiple-family residential building at 3707 Grand Avenue and to construct a new 4-story multiple-family building that would connect to the senior housing development to the west. The boundary of the proposed PUD District includes a commercial property with frontage on Ingersoll Avenue that would not be impacted by the proposed project.

2. Size of Site: 4.31 acres.

3. Existing Zoning (site): The subject property was zoned “R-4” Multiple-Family Residential District, “NPC” Neighborhood Pedestrian Commercial District, “GGP” Gambling Games Prohibition Overlay District, and “FSO” Freestanding Sign Overlay at the time the application was submitted. The property is currently zoned “NX3” Neighborhood Mix District and “MX2” Mixed Use District.
4. **Existing Land Use (site):** An independent senior living apartment building, an assisted living apartment building, and an office building.

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

   - **North** – “MX2” (NPC at time of submittal): Uses are commercial.
   - **South** - “NX3” & P2” (R-3 at time of submittal): Uses are multiple-family residential and institutional.
   - **East** - “NX3” (R-3 & R-4 at time of submittal): Uses are multiple-family residential.
   - **West** - “P2” (R-3 at time of submittal): Use is a church.

6. **General Neighborhood/Area Land Uses:** The site is located on the north side of Grand Avenue to the east of the 39th Street 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 North of Grand Neighborhood and within 250 feet of the Greenwood Historic Neighborhood and the Salisbury Oaks Neighborhood. The neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on December 27, 2020 and the Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to the hearing) and January 6, 2020 (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 North of Grand Neighborhood Association mailings were sent to Jason Norris, 647 34th Street, Des Moines, IA 50312. The Greenwood Historic Neighborhood Association mailings were sent to Nicholas Larson, 127 34th Street, Des Moines, IA 50312. The Salisbury Oaks Neighborhood Association mailings were sent to R.J. Rademacher, 517 SW 42nd Street, Des Moines, IA 50312.

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

9. **PlanDSM Creating Our Tomorrow Future Land Use Plan Designation:** High Density Residential located in a Community Node.

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

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

   **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 underlying designation is Neighborhood Mixed Use.

2. PUD Standards: The following are standards from Section 134-704 of the Zoning Code in place at the time the application was submitted and provides the foundation that all PUD Conceptual Plans should be based on.

   A full staff report including analysis of these standards will be provided for the February 6, 2020 meeting.

   **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.
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.

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.

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.

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).

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.

III. STAFF RECOMMENDATION

Staff recommends continuation of the request to the February 6, 2020 meeting of the Plan and Zoning Commission.

SUMMARY OF DISCUSSION

Jacqueline Easley noted that the applicant for item #9 had requested a continuance to the February 6, 2020, Plan and Zoning Commission meeting. No member of the audience or the Commission requested to speak regarding this item.

Dory Briles made a motion to continue item #9 to the February 6, 2020 Plan and Zoning Commission meeting. Motion Carried 13-0

COMMISSION ACTION:

Dory Briles made a motion to continue item #9 to the February 6, 2020 Plan and Zoning Commission meeting.

THE VOTE: 13-0
Item 10

Request from Lucky Gal I, Inc. (owner) represented by Chris Pruisner (officer) for the following for property located at 3104 Southwest 9th Street.

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

B) Rezone property from “RX1” Mixed Use District to “MX1” Mixed Use District, to allow use of the building for an amusement arcade (Sports and Recreation, Private/Participant - Indoor) use. (ZON2019-00240)

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed rezoning to “MX1” District would allow reuse of a portion of the existing building for a “Sports and Recreation, Private/Participant, Indoor” use, such as an amusement arcade. The appellant has indicated that they do not intend to serve alcohol.

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): “RX1” Mixed Use 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, and a parking lot.

5. Adjacent Land Use and Zoning:

   North - “RX1”, Uses include Pleasant View Drive and an unoccupied 1-story commercial building.

   South - “P-2”, Use is the Park Avenue Presbyterian Church.

   East - “RX1”; Uses are Southwest 9th Street, a multiple-family residential dwelling, and Park Avenue Elementary School.

   West - “RX1”; 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 December 27, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to the public hearing) and January 6, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the 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 January 10, 2020.

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 January 12, 2020. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

8. **Relevant Zoning History:** On October 3, 2019, the Plan & Zoning Commission voted 10-0 to recommend denial of request to rezone the 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.

On November 4, 2019, the City Council voted 7-0 to dismiss the rezoning procedure after the applicant filed a request to withdraw the rezoning in order to postpone said application for processing under the City’s new Zoning Ordinance.

The City’s new Zoning Ordinance took effect on December 15, 2019, at which time the property became zoned “RX1” District. On December 17, 2019, the applicant filed a new rezoning application under the new code.

9. **PlanDSM Land Use Plan Designation:** Community Mixed Use, within a Neighborhood Node centered at the intersection of Southwest 9th Street and Park Avenue.

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

II. ADDITIONAL APPLICABLE INFORMATION

1. PlanDSM Land Use Plan: The City’s comprehensive land use plan designates the property as Community Mixed Use, within a Neighborhood Node centered at the intersection of Southwest 9th Street and Park Avenue. PlanDSM describes “Community Mixed Use” 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.

The recently adopted Zoning Ordinance describes the requested “MX1” District as follows: intended for the mixed use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods.

Staff recommends that the requested “MX1” District be found in conformance with the Des Moines’ PlanDSM: Creating Our Tomorrow Plan future land use designation of “Community Mixed Use”. However, Staff recommends that any use of the property be limited to any use as allowed in the “RX” District or an amusement arcade without alcohol sales.

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

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 approval of the request to rezone to a Limited “MX1” District subject to the following conditions:

1. Use of the property shall be limited to any use as permitted in the “RX1” District or a Sports and Recreation, Private/Participant, indoor use.
2. Any sale or service of alcoholic liquor, wine, and/or beer on the premise shall be prohibited.

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.
SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendations.

Michelle Pruisner, 3104 SW 9th Street stated they were in front of the Commission last fall and back for approval of this rezoning. They currently own and operate 3 Lucky Gal Tattoo locations. They would like this property to become mixed use for the arcade that is purposed. Their goal is to offer a family fun, safe environment for families to come and spend time. They will be making major renovations to the location that consist of exterior and interior work. They will repaint the exterior and create a new frontage to the building to add curb appeal. They will also be providing more outdoor lighting and security that isn’t there today. They have met with the neighborhood and adjoining properties to put a lot of the prior concerns to rest. They have received over 1,000 signatures in support on their online petition and another 300 written signatures.

CHAIRPERSON OPENED THE PUBLIC HEARING

Susan Lee, 819 Pleasant View Drive stated she lives behind the current Lucky Gal location and the owners have done a fantastic job with that location. This arcade would be a great thing for the South Side and give kids a place to go. They have done a great job keeping up the current property with a lot of improvements inside and out to make it look better. She is excited to see what they will do with the new location.

Marlene Anderson, 3320 SW 12th Street stated she has been living in this area for over 37 years. What Lucky Gal is doing with this property is exactly what the SW 9th corridor needs. She is a grandmother and cannot wait for this to be approved so she can bring her grandchildren to the arcade. She has been very impressed with the current Lucky Gal location on SW 9th and how they have fixed and maintained that property through the years.

Jason Shreve, Owner of Jay CD and Hobby, 3315 SE 14th Street stated they are looking to partner with Lucky Gal in the arcade aspect to create a safe and friendly environment for people to come spend time. His business has been on the South Side for over 15 years and their track record shows nothing but a safe environment for people to come hang out and enjoy themselves. The South Side needs and deserves something like this so people have more places to enjoy. They had over 400 people sign a petition stating they want this arcade and this was only at their South Side location (submitted a petition for the record).

Ruth Canny, 910 Boulder Avenue stated she has a fear of cars overflowing into the church parking lot and not sure how the owner will contain that. She is concerned about people getting hit by a car in the parking lot due to no barrier between them and the church’s parking lot. Just because you put up parking signs doesn’t mean people will abide by them. The transitional home nearby also raises concerns because of the potential of troubled kids making their way to this arcade. She would like to know who will oversee this location when the owner isn’t around.
CHAIRPERSON CLOSED THE PUBLIC HEARING

Chris Pruister stated there is no chance they will go forward with any sale of alcohol. They will have cameras put in that they can monitor at all times and they have never had any problems with loitering at the current locations. They will have a manager on duty at all times but he will be spending a lot of time at this location due to son wanting to be in the arcade. There will be no smoking inside the building and must be 25 feet away from the front door to smoke, they are aiming the arcade business at young kids so they don’t see much smoking happening around the building. He encourages those troubled kids from the transitional home to come in so they can be mentored and have the protentional to turn their bad behavior into good. The church congregation currently allows people to park overnight and he cannot control what happens outside of his parking lot. He assures this will be an easy transition and to give them a few years to prove that.

Jacqueline Easley asked staff to clarify what would need to happen if alcohol sales were request in the future.

Erik Lundy stated they would have to follow the same process they are now and notifications would be send to adjoining neighbors.

COMMISSION ACTION:

Francis Boggus 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) APPROVAL of the request to rezone to a Limited “MX1” District subject to the following conditions:

1. Use of the property shall be limited to any use as permitted in the “RX1” District or a Sports and Recreation, Private/Participant, indoor use.
2. Any sale or service of alcoholic liquor, wine, and/or beer on the premise shall be prohibited.

THE VOTE: 11-0

Election of Officers

Will Page presented the following slate of officers as recommended by the nominating committee:

Jann Freed - Chair
Dory Briles - 1st Vice Chair
Emily Webb - 2nd Vice Chair
Jacqueline Easley stated the slate of officers will be voted on at the February 6, 2020 Plan and Zoning Commission meeting in accordance with the By-Laws of the Commission.

Committee and Director’s Reports: None

Meeting adjourned at 8:15