*	Roll Call	l Number	
Date	October	21, 2024	

Agenda	Item	Number
	2	5

RESOLUTION SETTING HEARING ON APPEAL FROM IOWA MOTOR CARRIERS FOUNDATION (OWNER), REPRESENTED BY BRENDA NEVILLE (OFFICER), ON A DENIAL OF A TYPE 2 DESIGN ALTERNATIVE FOR A PUBLIC HEARING SITE PLAN

FOR PROPERTY LOCATED AT 717 EAST COURT AVENUE

WHEREAS, at a public hearing held on July 18, 2024, the City Plan and Zoning Commission considered a request from Iowa Motor Carriers Foundation (Owner), represented by Brenda Neville (Officer), for approval of the Site Plan for Type 2 Design Alternative waiving the requirement for undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council, as shown in the Site Plan submitted for the property located at 717 East Court Avenue; and

WHEREAS, pursuant to Section 135-9.2.3.B.16.A of the Municipal Code, undergrounding of overhead electrical lines is required in an underground district designated by resolution of the City Council; and

WHEREAS, pursuant to Section 1-2 of the Municipal Code, the underground district designated by resolution of the City Council encompasses the area bounded by: the territory on the west side of the Des Moines River beginning at the point of intersection of the west bank of the Des Moines River with the easterly extension of the south line of the first east/west alley south of Court Avenue; thence westerly along the westerly extension of the south line of such alley to the east right-of-way line of Fifth Avenue; thence southerly along the east right-of-way line of Fifth Avenue to the southeast corner of the intersection of Fifth Avenue and Cherry Street; thence westerly along the south right-of-way line of Cherry Street to the southwest corner of the intersection of Cherry Street and Ninth Street; thence northerly along the west right-of-way line of Ninth Street to the northwest corner of the intersection of Ninth Street and Grand Avenue; thence easterly along the north right-of-way line of Grand Avenue to the west bank of the Des Moines River; thence southerly along the west bank of the Des Moines River to the point of beginning; and the territory on the east side of the Des Moines River beginning at the point of intersection of the east bank of the Des Moines River with the north right-of-way line of East Grand Avenue; thence easterly along the north right-of-way line of East Grand Avenue to the northeast corner of the intersection of East Grand Avenue and vacated East Ninth Street; thence southerly along the east right-of-way line of vacated East Ninth Street to the intersection of the east right-of-way line of vacated East Ninth Street and the easterly extension of the south line of the first vacated east/west alley lying south of East Court Avenue; thence westerly along the westerly extension of the south line of such alley to the east bank of the Des Moines River; thence northerly along the east bank of the Des Moines River to the point of beginning.; and

WHEREAS, in its Site Plan, the Iowa Motor Carriers Foundation proposed for waiving the waiving the requirements for undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council since the property located at 717 East Court Avenue is located within the above defined underground district; and

Roll Cal	Num	ber				Agenda Item Number
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Alternative, in very requirements to a	which the low for	he Con	mmissi lergrou	ion den nding o	n voted 13-0 for DENIAL of the required the request to waive or most the current overhead electrical line attion of the City Council; and	dify said ordinance
Municipal Code S decision and den requirements for	Section 1 ial of tl undergr	35-9.3 he aboroundin	.9(B), a ve-deso g of o	and is se cribed T verhead	tion has timely appealed to the City seking further review of the Plan and Type 2 design alternative to the Si electrical lines where it is required y Council set forth in Municipal	Zoning Commission te Plan waiving the lin an underground
NOW THEREFO	ORE, B	E IT R	ESOL	VED, t	by the City Council of the City of De	es Moines, Iowa, as
in the Council November 4, favor the prop 2. The City Clerk	l Chamb 2024 at osal. k is here	ers, Ci which by auth	ty Hal time th	l, 400 R ne City (by the Iowa Motor Carriers Foundation Robert D. Ray Drive, Des Moines, I Council will hear both those who operated to publish notice of said hearing of the Iowa Code.	owa at 5:00 p.m. on opose and those who
attached, iii ac					TO ADOPT.	
					SECOND BY	
FORM APPRO /s/ Chas M. Cahill, Assistant City A	nill				(SITE-2023-000101)	
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT	CERTIFICA	re
BOESEN						
COLEMAN					I, Laura Baumgartner, City Clerl	of said City hereb
GATTO					certify that at a meeting of the City Councillous City of Des Moines, held on the above da	
MANDELBAUM					other proceedings the above v	
SIMONSON					_	•
VOSS					IN WITNESS WHEREOF, I h hand and affixed my seal th	ave hereunto set m e day and year fire
WESTERGAARD					above written.	c any and year ills
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			1	Mayor		City Clerk



Roll Call #_

July 22, 2024

Communication from the City Plan and Zoning Commission advising that at their July 18, 2024 meeting, the following action was taken on Request from Iowa Motor Carriers Foundation (owner), represented by Brenda Neville (officer), for review and approval of a Public Hearing Site Plan "Iowa Motor Truck Association" for property located at 717 East Court Avenue, and for a Type 2 Design Alternative to waive undergrounding of overhead electrical lines where it is required in an underground district designated by resolution of the City Council, subject to City Code Section 135-9.2.3.B.16.A.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	Χ	•			
Leah Rudolphi					X
Abby Chungath	Χ				
Kayla Berkson	X				
Chris Draper	X				
Laura Kessel	X				
Todd Garner	X				
Johnny Alcivar	Χ				
Justyn Lewis	X				
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette					X
Rick Trower	X				

Approval of the Public Hearing Site Plan, subject to compliance with all administrative review comments and denial of the requested Type 2 Design Alternative.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the Public Hearing Site Plan, subject to compliance with all administrative review comments and denial of the requested Type 2 Design Alternative.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request: The proposed site plan would allow for an interior renovation of an existing building and landscaping improvements. The building improvements would exceed the property's total assessed value.
- 2. Size of Site: 88,745 square feet (2.038 acres).
- 3. Existing Zoning (site): "DX2" Downtown Mixed-Use District.
- **4. Existing Land Use (site):** The subject property contains a pre-existing building and associated surface parking lot.
- 5. Adjacent Land Use and Zoning:
 - **North** "ROW", "P2", and "DX2", Uses are East Court Avenue, government records storage, and a surface parking lot.
 - **South** "DXR", Use is a former railroad.
 - *East* "P2", Use is a government office.
 - West "DXR", Use is an office.
- **6. General Neighborhood/Area Land Uses:** The subject property is located along the East Court Avenue corridor. General office and surface parking lot uses are prevalent to the west of the subject property with governmental entities to the north and east. An abandoned railway is adjacent to the south.
- 7. Applicable Recognized Neighborhood(s): The subject property is in the Historic East Village Neighborhood. All neighborhoods were notified of the Commission meeting by emailing of the Preliminary Agenda on June 28, 2024 and the Final Agenda on July 12, 2024.

A 10-day notice of this specific item was mailed to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject site. All notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood

Development Division. The Historic East Village Neighborhood Association notice was sent to Luke Dickens, PO Box 93904, Des Moines, IA 50393.

- 8. Relevant Zoning History: NA
- 9. PlanDSM Future Land Use Plan Designation: Downtown Mixed Use.
- **10.Applicable Regulations:** Pursuant to Section 135-9.1.1.B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:
 - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;
 - Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:
 - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;
 - > Zoning restrictions at the time of the proposal;
 - The city's comprehensive plan;
 - The city's plans for future construction and provision for public facilities and services; and
 - The facilities and services already available to the area which will be affected by the proposed site use;
 - Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
 - Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
 - Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
 - Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1.B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and greater consistency with the comprehensive plan.
- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
 - An evaluation of the character of the surrounding neighborhood, such as:
 - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
 - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested;
 - ➤ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
 - Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
 - Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;
 - Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and

> Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

II. ADDITIONAL APPLICABLE INFORMATION

The subject property is located within an underground utility district defined by City Council resolution. The district encompasses the downtown area and has been in place for multiple decades. The eastern portion of the district is bound by East 9th Street to the east, the Des Moines River to the west, East Grand Avenue to the north and East Court Avenue to the south. Within this portion, only two (2) properties have not yet undergrounded their overhead lines, IMTA at 717 East Court Avenue and Associated General Contractors of Iowa office at 701 East Court Avenue. IMTA is proposing interior renovation work that will exceed the property's total assessed value. This work triggered a site plan with full site compliance and as such, the requirement to underground the overhead lines within the underground utility district.

The owner has cited cost as their reason for requesting waiver of the Council resolution and provided the following breakdown:

MidAm Proposal:	\$108,592.66
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Kline Electric Underground Conduits and Transformer Pad:	\$27,350.00
Kline Electric Verizon Overhead to Underground Work:	\$3,575.00
Brilliant Borders Surface Restoration from Underground Work:	\$5,801.71
Brilliant Borders Landscaping on Transformer Pad:	\$2,807.33
GC Helland Construction 10% O&P:	\$14,812.67

TOTAL UNDERGROUND COSTS = \$162,939.37

Total IIVITA Remodeling Project Cost: St. 297 679	Total IMTA	A Remodeling Project Cost:	\$1,297,679,6
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% of Overhead to Underground Conversion to Project Cost: 12.55 %

The provided undergrounding estimate is 12.55% of the total project cost which is approximately \$33,000 higher than the typical Type 1 Design Alternative waiver threshold of 10%. The waiver request is not eligible for review at an administrative level because the underground district is not a Chapter 135 requirement. This request is applied through the site plan process; therefore, it can be appealed to the Commission.

The underground utility district was established by the City Council as a requirement specific to the downtown multiple decades ago. It has been successfully implemented over that time, leaving only two properties in the East Village with overhead lines. The proposed cost to bury represents 12.55% of the total budget. Staff does not support the request given the longevity of the district, the significance of the downtown, and the commitment made by others to comply.

SUMMARY OF DISCUSSION

<u>Shawna Beron</u> presented the staff report and recommendation.

Todd Garner asked what the power line served.

Shawna Beron stated it serves the location and there are also some service lines.

<u>Jason Van Essen</u> stated we are processing this appeal through the site plan process. But noted that the underground district that covers the downtown core is a long-standing requirement. It was established separately from Chapter 135 but is implemented through the site plan process.

<u>Laura Kessel</u> asked if the applicant had made improvements in the last 25 years that had not triggered the site plan compliance.

<u>Shawna Beron</u> was not aware of any. Noted that the amount being spent on the building and values has triggered full site compliance.

<u>Jason Van Essen</u> stated he believed that the only site plan for the site was the original site plan of record.

<u>Chris Draper</u> asked what percentage threshold is used for staff waivers of the underground requirement and where does the 10% of costs come into view.

<u>Jason Van Essen</u> stated that originally the Chapter 135 required all undergrounding waivers to be considered by the Plan and Zoning Commission. There was no option for administrative consideration. An administrative waiver process was created with a set list of criteria, which includes the 10% of project budget threshold. This does not apply to the underground district as it is a separate requirement from Chapter 135.

CHAIRPERSON OPENED THE PUBLIC HEARING

<u>Eric Cannon</u> 2727 Hunter Blvd, Synder and Associates, consultant working on behalf of the applicant. Stated the only reason they are here is due to the cost of the interior improvements. Noted that they would be adding a bike rack and making dumpster enclosure improvements. They had not planned to touch the outside of the building with the improvements, and this was a surprise to them when they were advised of the additional site plan requirements. This is a huge additional cost. Notes they are on the edge of the underground district, and this has been waived on other projects around town and is a common request with such an extreme cost to a project.

<u>Rick Trower</u> asked for an explanation on the site plan to show where the current lines, poles and transformer sit.

<u>Eric Cannon</u> showed that the three poles run along the front portion of the Court Avenue facing side. It is an odd-shaped lot with only a small frontage on the street. Even though small, it is at a large price with both MidAmerican and Verizon being on these poles, it places a heavy burden on the business. He notes that the city did the Court Avenue reconstruction but stopped short of this area. They are being good corporate citizens trying to make improvements to the existing building and asks for consideration on the waiver for underground utilities.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION

Chris Draper supports the idea of underground utilities.

<u>Caroline Jenison</u> mentioned that she wished she could get the same on the 2nd Avenue project.

<u>Chris Draper</u> noted that just because we are doing it wrong in one area shouldn't make a difference on doing it wrong in another area.

<u>Laura Kessel</u> asked if there was any precedent for the city subsidizing the cost.

Jason Van Essen stated there was not.

<u>Chris Draper</u> made a motion for approval of the Public Hearing Site Plan, subject to compliance with all administrative review comments and denial of the requested Type 2 Design Alternative.

THE VOTE 13-0

Respectfully submitted,

Planning & Urban Design Administrator

JMV:mrw

October 9, 2024

Mrs. Shawna Beron City of Des Moines Community Development Department 602 East 1st Street Des Moines, Iowa 50309

RE:

IOWA MOTOR TRUCK ASSOCIATION – 717 COURT AVE TYPE II ZONING CODE EXCEPTION

Dear Shawna:

As outlined in my email dated October 1, 2024 and on behalf of the Iowa Motor Turck Association as the owner and developer, we respectfully request to appeal the Planning and Zoning Commissions denial to the City Council of a Type II Zoning Code Exception for the requirement to underground the existing overhead electric and communication lines along the frontage of 717 Court Ave as outlined in Chapter 135-9.2.3.B.16.

We appreciate your consideration for the code exception and please contact our office directly should you have any questions or comments on anything.

Sincerely,

SNYDER & ASSOCIATES, INC.

Eric D. Cannon, P.E.

Cc: Cameron Wright, Skinner Law Office PC

Brenda Neville, Iowa Motor Truck Association







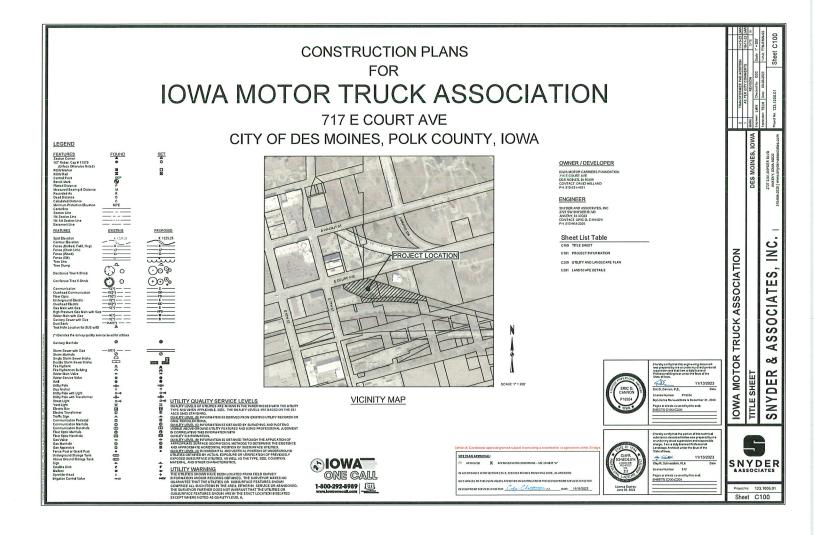
Underground District looking west along the E Court Ave corridor



Underground District looking west along the E Walnut St corridor

Underground District looking west along the E Grand Ave corridor





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