



Roll Call Number

22-0109

Agenda Item Number

27 ✓

Date January 24, 2022

RESOLUTION HOLDING HEARING ON APPEAL OF GLAD TIDINGS ASSEMBLY OF GOD CHURCH OF DENIAL OF A TYPE 2 DESIGN ALTERNATIVE FOR A PUBLIC HEARING SITE PLAN FOR PROPERTY LOCATED AT 2145 EAST ARMY POST ROAD

WHEREAS, at a public hearing held on November 18, 2021, the City Plan and Zoning Commission considered a request from Glad Tiding Assembly of God Church (owner), represented by Bill Wenig (officer), for approval of the Site Plan “Glad Tidings Assembly of God Church” with a Type 2 design alternative fully or partially waiving the front yard and side yard surface parking restrictions in the front yard along primary frontages set forth in Municipal Code Section 135-9.2.4(B) and 135-9.3.1(B) related to the proposed development as shown in the Site Plan submitted for the vacant property located at 2145 East Army Post Road (“Property”); and

WHEREAS, Section 135-2.10.3(A)(8) of the Planning and Design ordinance provides that for Civic buildings within the “P2” District, surface parking and loading is to be located within rear and interior side yards only along a non-primary façade; and

WHEREAS, in review and recommendation to the City Plan and Zoning Commission, the City’s Planning Administrator recommended denial of the requested Type 2 Design Alternative to waive or modify said ordinance requirements to allow the surface parking in the front yard and street facing side yard along the East Army Post Road primary frontage of the site; and

WHEREAS, the Plan and Zoning Commission voted 8-3 for **DENIAL** of the requested Type 2 Design Alternative to waive or modify said ordinance requirements to allow the surface parking in the front yard and street facing side yard along the East Army Post Road primary frontage of the site rather than approving it as requested by Glad Tidings Assembly of God Church; and

WHEREAS, Glad Tidings Assembly of God Church has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9.B seeking further review of the Plan and Zoning Commission’s denial of the Type 2 design alternative to the Site Plan to fully or partially waiving the front yard and side yard surface parking restrictions along the East Army Post Road primary frontage set forth in Municipal Code Section 135-9.2.4(B) and 135-9.3.1(B) related to the proposed development as shown in the Site Plan submitted for the vacant property located at 2145 East Army Post Road; and

WHEREAS, on January 10, 2022, by Roll Call No. 22-0042, it was duly resolved by the City Council that the appeal be set down for hearing on January 24, 2022 at 5:00 P.M. in the Council Chambers; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place of hearing on said appeal; and

WHEREAS, in accordance with said notice, those interested in said appeal and the proposed Type 2 Design Alternative, both for and against, have been given the opportunity to be heard with respect thereto and have presented their views to the City Council.



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NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa as follows:

1. Upon due consideration of the facts and any statements of interested persons and arguments of counsel, any and all arguments and objections to the Plan and Zoning Commission’s denial of the Type 2 Design Alternative in form requested by Glad Tidings Assembly of God Church for property located at 2145 East Army Post Road, as described above, are hereby received and filed.
2. The communications from the Plan and Zoning Commission, and Glad Tidings Assembly of God Church are hereby received and filed.

Alternative A

MOVED BY _____ to **DENY** the Type 2 Design Alternative in form requested by Glad Tidings Assembly of God Church described above, to uphold and **APPROVE** the Type 2 Design Alternative in form approved by the Plan and Zoning Commission, and to make the following findings of fact and objections regarding the Type 2 Design Alternatives as proposed by Glad Tidings Assembly of God Church:

- a. Municipal Code Section 135-2.10.3(A)(8) requires Civic buildings within the “P2” District to have surface parking and loading located in rear yards and interior side yards along a non primary frontage.
- b. The Property is a vacant site of more than 8 acres, with no existing buildings or site conditions that make strict compliance with the applicable regulations impractical.
- c. The site is near an intersection of two primary streets, East Army Post Road and Indianola Avenue, which is noted as a Neighborhood Node on the City’s Land Use Map. The future land uses and zoning show the intent of the code to promote pedestrian oriented development that engages the street, with buildings close to the public right-of-way, and there are no planned features of the development that would hinder development meeting that intent.
- d. Glad Tidings proposal for the Type 2 Design Alternative to the requirements of Section 135-2.10.3(A)(8) is for full waiver along East Army Post Road, resulting in the entire surface parking area being located in the yard between the proposed building and the abutting street, and it is based on preference, rather than need.
- e. City Planning staff recommended denial of said Type 2 design alternative for partial or full waiver of Section 135-2.10.3(A)(8) as requested by Glad Tidings Church.
- f. Glad Tidings Assembly of God Church has not met the burden required to demonstrate that its requested design alternative meets the criteria for approval or that the result of the design alternatives would equal or exceed the result of compliance with the above-stated alternate Type 2 Design Alternatives approved by the Plan and Zoning Commission, constituting a compromise position between full compliance with the Planning and Design Ordinance and Glad Tidings Church’s proposal.
- g. Glad Tidings Assembly of God Church has not shown that its requested design alternative is consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan.
- h. Glad Tidings Assembly of God Church has not shown that its requested design alternatives will not have a substantial or undue adverse effect on the public health, safety, and general welfare.



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- i. The Type 2 Design Alternatives as proposed by Glad Tidings Assembly of God Church should not be approved for the reasons stated above.
- j. The Type 2 Design Alternatives, in form approved by the Plan and Zoning Commission, should be upheld and approved for the reasons stated above.

Alternative B

MOVED BY _____ to **APPROVE** the proposed Type 2 Design Alternatives in form requested by Glad Tidings Assembly of God Church and described above, and to make the following findings of fact in support of approval of the proposed Type 2 Design Alternatives:

- a. Municipal Code Section 135-2.10.3(A)(8) requires Civic buildings within the “P2” District to have surface parking and loading located in rear yards and interior side yards along a non-primary frontage, but the Design Code allows for applicants to seek a Type 2 Design Alternative.
- b. The Property is a vacant site of more than 8 acres, with but proposed site conditions, the parking will be mostly hidden from view along Army Post, and it will include a detention basin along Indianola Avenue that make strict compliance with the applicable regulations impractical along Army Post Road.
- c. The site is near an intersection of two primary streets, East Army Post Road and Indianola Avenue, which is noted as a Neighborhood Node on the City’s Land Use Map. The future land uses and zoning show the intent of the code to promote development that engages the street, with buildings close to the public right-of-way, but the proposed structure by design will not be a typical commercial building with cars parked there all the time, so it would still meet the intent.
- d. Glad Tidings proposal for the Type 2 Design Alternative to the requirements of Section 135-2.10.3(A)(8) is for full waiver along East Army Post Road, resulting in the entire surface parking area being located in the yard between the proposed building and the abutting street, based on preference to meet neighborhood and congregational need.
- e. Glad Tidings Assembly of God Church has met the burden required to demonstrate that the requested design alternative meets the criteria for approval and that the result of the design alternatives would equal or exceed the result of strict compliance with Section 135-2.10.3(A)(8) of the Planning and Design Ordinance.
- f. Glad Tidings Assembly of God Church has shown that the requested design alternative is consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan.
- g. Glad Tidings Assembly of God Church has shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- h. Said Type 2 Design Alternatives, in form requested by Glad Tidings Assembly of God Church, should be approved for the above-stated reasons and incorporated into the approved Site Plan for the Property.

MOVED by Gatto to continue to the February 7, 2022 Council Meeting. ~~Second~~ by Sheumaker.

Date January 24, 2022

FORM APPROVED:

Judy K Parks - Kruse
 Judy K. Parks-Kruse, Assistant City Attorney

(SITE-2021-000020)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, P. KAY CMELIK, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

J. M. Franklin Cownie Mayor

P. Kay Cmelik City Clerk