



Roll Call Number

22-0951

Agenda Item Number

71

Date June 13, 2022

RESOLUTION HOLDING HEARING ON APPEAL BY KNAPP HOMES, LLC (OWNER) OF DENIAL BY PLAN AND ZONING COMMISSION OF TYPE 2 DESIGN ALTERNATIVES FOR PROPERTY LOCATED AT 4402 DOUGLAS AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 21, 2022, its members voted 12-0 denying a request by Knapp Homes, LLC (Owner) for approval of a Site Plan including numerous Type 2 Design Alternatives for property located at 4402 Douglas Avenue, Des Moines, Iowa; and

WHEREAS, the Property is legally described as follows:

LOT 1, EXCEPT THE WEST 149.8 FEET AND THE NORTH 25 FEET OF LOT 2, EXCEPT THE WEST 149.8 FEET IN PHILPOTT ACRES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; and

WHEREAS, the Type 2 Design Alternatives requested were:

1. Waive the requirement of a primary build-to-zone of 0-5 feet, per Municipal Code Section 135-2.5.3.A.3.
2. Allow a primary frontage coverage of 15%, which is 45% less than the minimum 60% required, per Municipal Code Section 135-2.5.3.A.2.
3. Waive the requirement for 65% transparency on the primary façade measured between 2 feet and 8 feet, per Municipal Code Section 135-2.5.3.D.18.
4. Waive the requirement for the primary frontage entrance to be recessed between 2 feet and 8 feet, per Municipal Code Section 135-2.5.3.D.21.
5. Waive the requirement for a primary frontage entrance per Municipal Code Section 135-2.5.3.D.20.
6. Waive the requirement for a drive-through facility to be located on the rear or interior side of the building, fully screened by the building from a primary street, per Municipal Code Section 135-2.22.3.D.1; and

WHEREAS, Knapp Homes, LLC has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9.B seeking to have the Site Plan, including the foregoing Type 2 design alternatives thereto, approved; and

WHEREAS, on May 23, 2022, by Roll Call No. 22-0782, it was duly resolved by the City Council that the appeal be set down for hearing on June 13, 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



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

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 denial of the Site Plan for Property located at 4402 Douglas Avenue, and denial of the Type 2 design alternatives described above, are hereby received and filed and the public hearing is closed
2. The communications from the Plan and Zoning Commission and Knapp Homes, LLC are hereby received and filed.

Alternative A

Moved by _____, second by _____ to DENY the proposed Site Plan and Type 2 Design Alternatives described above, and thus uphold the denial by the Plan and Zoning Commission, and to make the following findings of fact in support of denial of the proposed Site Plan and Type 2 Design Alternatives:

1. Municipal Code Section 135-2.5.3.A.3 requires build-to-zone of 0-5 feet on primary frontage.
2. Municipal Code Section 135-2.5.3.D.18 requires 65% primary frontage ground story transparency measured between 2 feet and 8 feet.
3. Municipal Code Section 135-2.5.3.D.18 requires 65% primary frontage ground story transparency measured between 2 feet and 8 feet.
4. Municipal Code Section 135-2.5.3.D.21 requires the primary frontage entrance to be recessed between 2 feet and 8 feet.
5. Municipal Code Section 135-2.5.3.D.20 requires a principal entrance on the primary frontage façade.
6. Municipal Code Section 135.2.22.3.D.1. requires the drive-through facility to be located on the rear or interior side of the building and must be screened from a primary street.
7. The Douglas Avenue Corridor Plan establishes goals to improve accessibility to businesses, emphasizing walkability as a mode of transportation, and for any development to be built to the sidewalk of properties to create a focal point. The current layout of the building and drive-through facility and requested design alternatives do not meet the goals established in this corridor plan or the goals established by Plan DSM.
8. Installation of pedestrian access including a patio is integral to serving the pedestrian access to the site and as such is a necessary element for approval of the site plan.



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9. Owner has not met the burden required to demonstrate that the requested design alternatives meet the criteria for approval or that the result of the design alternatives would equal or exceed the result of compliance with the relevant sections of the Municipal Code.
10. Owner has not shown that its requested design alternatives are 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.
11. Owner has not shown that the requested design alternatives will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
12. The Type 2 Design Alternatives as proposed by Owner should not be approved for the reasons stated above.

Alternative B

Moved by Voss, second by Matto to **APPROVE** the proposed Site Plan and Type 2 Design Alternatives described above, subject to all administrative review comments and to make the following findings of fact in support of approval of the proposed Site Plan and Type 2 Design Alternatives:

1. Municipal Code Section 135-9.2.2.B.1 provides that design alternatives are intended to allow for relief from the Planning and Design Ordinance 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.”
2. The applicant is proposing to construct a new 669-square-foot drive-through kiosk style building (Scooter’s Coffee).
3. Municipal Code Section 135-2.5.3.A.3 requires build-to-zone of 0-5 feet on primary frontage.
4. Municipal Code Section 135-2.5.3.A.2 requires 60% minimum primary frontage coverage.
5. Municipal Code Section 135-2.5.3.D.21 requires the primary frontage entrance to be recessed between 2 feet and 8 feet.
6. Municipal Code Section 135-2.5.3.D.20 requires a principal entrance on the primary frontage façade.
7. Municipal Code Section 135.2.22.3.D.1. requires the drive-through facility to be located on the rear or interior side of the building and must be screened from a primary street.
8. Applicant has shown that the build-to-zone requirement, primary frontage requirements on both street frontages, primary frontage entrance requirements, and drive-through placement requirements cannot be met because of building size and the room needed for circulation of the drive through lane.



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9. Municipal Code Section 135-2.5.3.D.18 requires 65% primary frontage ground story transparency measured between 2 feet and 8 feet.
10. Applicant has demonstrated that the transparency requirements cannot be met because the site contains a small building filled with food service equipment.
11. Applicant has demonstrated that a patio is not feasible at this location because the presence of a patio would require installation of a public restroom facility that is not supported at this location.
12. Owner has met the burden required to demonstrate that the requested design alternatives meet the criteria for approval or that the result of the design alternatives would equal or exceed the result of compliance with the relevant sections of the Municipal Code.
13. Owner has shown that its requested design alternatives are 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.
14. Owner has shown that the requested design alternatives will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
15. For the reasons stated above, the Type 2 Design Alternatives as proposed by Owner should be approved, subject to all administrative review comments, and incorporated into the Site Plan.

APPROVED AS TO FORM:

/s/ Gary D. Goudelock

Gary D. Goudelock
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHUEMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED

APPROVED

J. M. Franklin Cownie Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner Acting City Clerk