



**Roll Call Number**

22-1759

**Agenda Item Number**

42

**Date** November 7, 2022

**RESOLUTION HOLDING HEARING ON APPEAL BY FIRST ASSEMBLY OF GOD CHURCH (OWNER) OF DENIAL OF TYPE 2 DESIGN ALTERNATIVE FOR PROPERTY LOCATED IN THE VICINITY OF 2725 MERLE HAY ROAD**

**WHEREAS**, on September 1, 2022, the City Plan and Zoning Commission voted 11 - 2 to **APPROVE** a request from First Assembly of God Church represented by Jeffrey Ostrander (Officer), for approval of a Site Plan for property located in the vicinity of 2725 Merle Hay Road (the "Property"), subject to compliance with remaining administrative review comments and to **DENY** a requested Type 2 Design Alternative to not require screening of rooftop mechanical equipment; and

**WHEREAS**, the Type 2 Design Alternative requested were:

1. Waive the requirement of screening of rooftop mechanical equipment not screened by the rooftop design pursuant to Des Moines Municipal Code Section 135-4.5.5(B)

**WHEREAS**, First Assembly of God Church has timely appealed to the City Council pursuant to Des Moines Municipal Code Section 135-9.3.9.B seeking to have the Site Plan, including the above-described Type 2 design alternative thereto, approved, and has provided correspondence in support of its appeal.

**WHEREAS**, on October 24, 2022, by Roll Call No. 22-1640, it was duly resolved by the City Council that the appeal be set down for hearing on November 7, 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 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 Type 2 design alternative described above, are hereby received and filed and the public hearing is closed
2. The communications from the Plan and Zoning Commission and First Assembly of God Church are hereby received and filed.



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Alternative A

Moved by Sheumaker, second by Voss to DENY the Type 2 Design Alternative 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 Alternative:

1. Municipal Code Section 135-4.5.5(B) requires rooftop mechanical equipment, if not screened by the roof design, to be screened by architectural-quality metal screening material that is equal to the height of the equipment on all sides.
2. Municipal Code Section 135-4.5.5(B) further requires equipment to be set back from the edge of the roof so that it and the screening material are not visible from any adjoining right of way.
3. Screening for rooftop mechanical equipment diminishes negative visual impacts from adjacent properties and the right-of-way, and generally preserves building design quality.
4. Rooftop mechanical equipment screening also helps to abate negative auditory impacts that result from large appurtenances such as condensers, fans, generators, and the like that are frequently located on building roofs.
5. Commercial-grade mechanical equipment is frequently cited as a noise pollutant in urban environments.
6. Some of the existing and proposed rooftop units sit approximately 70 to 100 feet away from abutting residential properties.
7. Environmental studies in other jurisdictions such as San Jose and Ontario, CA, have found that perceptible auditory impacts of commercial-grade rooftop mechanical equipment can occur at this distance.
8. Building permits have not been applied for yet, but preliminary information has indicated that the project has a budget of approximately \$9,600,000. The applicant has provided a cost estimate of \$120,000 to screen the rooftop units, which represents 1.2% of the total cost
9. Owner has not met the burden required to demonstrate that the requested design alternative meet the criteria for approval or that the result of the design alternative 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 alternative 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 alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
12. The Type 2 Design Alternative as proposed by Owner should not be approved for the reasons stated above.



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Option B

Moved by \_\_\_\_\_, second by \_\_\_\_\_ to **APPROVE** the proposed Type 2 Design Alternative described above, subject to all administrative review comments and to make the following findings of fact in support of approval of the proposed Type 2 Design Alternative:

1. Municipal Code Section 135-9.2.2.B.1 provides that design alternative 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. Municipal Code Section 135-4.5.5(B) requires rooftop mechanical equipment, if not screened by the roof design, to be screened by architectural-quality metal screening material that is equal to the height of the equipment on all sides.
3. Municipal Code Section 135-4.5.5(B) further requires equipment to be set back from the edge of the roof so that it and the screening material are not visible from any adjoining right of way.
4. The applicant has proposed to at least partially blend existing rooftop units with the color palette of the new façade materials
5. Applicant has met the burden required to demonstrate that the requested design alternative meet the criteria for approval or that the result of the design alternative would equal or exceed the result of compliance with the relevant sections of the Municipal Code.
6. Applicant has shown that its requested design alternative 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.
7. Applicant has shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
8. For the reasons stated above, the Type 2 Design Alternative as proposed by Applicant 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



Roll Call Number

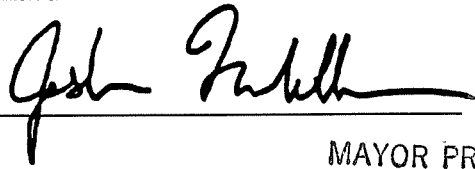
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
BOESEN		✓		
GATTO		✓		
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	4	2		1
MOTION CARRIED	APPROVED			

  
 \_\_\_\_\_  
 MAYOR PRO TEM

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

  
 \_\_\_\_\_ City Clerk