



Date June 30, 2025

**RESOLUTION HOLDING HEARING ON APPEAL FROM SCOTTISH RITE PARK, INC. (OWNER), REPRESENTED BY DANIEL J. BOOR (OFFICER), ON A CONDITIONALLY APPROVED TYPE 2 DESIGN ALTERNATIVE FOR A PUBLIC HEARING SITE PLAN FOR PROPERTY LOCATED AT 2909 WOODLAND AVENUE**

**WHEREAS**, at a public hearing held on April 3, 2025, the City Plan and Zoning Commission considered a request from Scottish Rite Park, Inc. (Owner), represented by Daniel J. Boor (Officer), for approval of the Site Plan for Type 2 Design Alternative waiving the requirement to install sidewalks along all street frontages identified in the city's transportation master plan, as shown in the Site Plan submitted for the property located at 2909 Woodland Avenue; and

**WHEREAS**, pursuant to Section 135-8.5.2.A of the Municipal Code, installation of sidewalks are required as identified in the city's transportation master plan; and

**WHEREAS**, in its Site Plan, the Scottish Rite Park, Inc. proposed waiving the requirement for installing sidewalks along all street frontages of the subject property, which have been identified in the city's transportation master plan as requiring sidewalks; and

**WHEREAS**, the Plan and Zoning Commission voted 11-0 for a conditional **APPROVAL** of a Type 2 Design Alternative, in which the Commission conditionally approved the request to waive said ordinance requirement to install sidewalks along all street frontages identified in the city's transportation master plan, subject to the following conditions:

1. Provision of a sidewalk segment extending east from the eastern edge of the drive to a point that aligns with the western 29th Street sidewalk. The sidewalk segment shall include a ramp oriented towards the south for pedestrians crossing Woodland Avenue.
2. Compliance with all administrative review comments.; and

**WHEREAS**, the Scottish Rite Park, Inc. has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9(B), and is seeking further review of the Plan and Zoning Commission decision and conditional approval of the above-described Type 2 design alternative to the Site Plan waiving the requirement to install sidewalks along all street frontages identified in the city's transportation master plan set forth in Municipal Code Section 135-8.5.2.A; and

**WHEREAS**, on May 19, 2025, by Roll Call No. 25-0737, it was duly resolved by the City Council that the appeal be set down for hearing on June 9, 2025 at 5:00 P.M. in the Council Chambers; and

**WHEREAS**, on June 9, 2025, by Roll Call No. 25-0861, it was duly resolved by the City Council that the appeal be continued and set down for hearing on June 30, 2025, at 5:00 p.m., at the City Council

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Chambers; and refer to the City Manager to work with the Applicant to explore options and locations for the sidewalk; and

**WHEREAS**, City Staff presented the Applicant an additional alternative to the sidewalk requirements, which includes a conditional approval of the request to waive said ordinance requirement to install sidewalks along all street frontages identified in the city's transportation master plan, subject to the following conditions:

1. Provision of a sidewalk ramp oriented towards the south for pedestrians crossing Woodland Avenue located on the western edge of the existing drive that will intersect with the southern Woodland Avenue sidewalk.
2. Compliance with all administrative review comments.; 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.

**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 conditional approval of the Type 2 Design Alternative in form requested by the Scottish Rite Park, Inc. for property located at 2909 Woodland Avenue, as described above, are hereby received and filed.
2. The communications from the Plan and Zoning Commission and Scottish Rite Park, Inc., respectively, are hereby received and filed.

**Alternative A**

MOVED BY Mandelbaum to **DENY** the Type 2 Design Alternative in form requested by the Scottish Rite Park, Inc. described above, to **APPROVE** the Type 2 Design Alternative in form recommended by the Planning and Zoning Commission described above, and to make the following findings of fact and objections regarding the Type 2 Design Alternative as proposed by the Scottish Rite Park, Inc.:

- a. Under Municipal Code Section 135-8.5.2, sidewalks are required as identified in the City's Transportation Master Plan.



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- b. The subject property is located along Woodland Avenue and 28<sup>th</sup> Street.
- c. The frontage along Woodland Avenue and 28<sup>th</sup> Street are priority one sidewalk gaps within the City's Transportation Plan, MoveDSM.
- d. Such sidewalk installation would provide connectivity and walkability for the subject property and surrounding properties.
- e. Scottish Rite Park, Inc.'s proposal for the Type 2 Design Alternative to the requirements of Section Code Section 135-8.5.2 are for full waiver, resulting in no sidewalk installations being required along Woodland Avenue and 28<sup>th</sup> Street, and it is based on preference, rather than need.
- f. City Planning staff recommended approval of the Type 2 design alternative with the condition that Scottish Rite Park, Inc. install a sidewalk on Woodland Avenue from the western property line to east of the existing driveway in order to make a crosswalk connection with the southern sidewalk across Woodland Avenue at the 29<sup>th</sup> Street intersection, in lieu of the Type 2 design alternative for full waiver of Section Code Section 135-8.5.2 as requested by Scottish Rite Park, Inc.
- g. Scottish Rite Park, Inc. have not met the burden required to demonstrate that their requested design alternative met the criteria for approval or that the result of the design alternative would equal or exceed the result of compliance with the Planning and Design Ordinance.
- h. Scottish Rite Park, Inc. have not shown that their 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.
- i. Scottish Rite Park, Inc. have not shown that their requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- j. The Type 2 Design Alternative as proposed by Scottish Rite Park, Inc. should not be approved for the reasons stated above.

Direct staff to coordinate timing of sidewalk construction with the applicant.

### Alternative B

MOVED BY \_\_\_\_\_ to **DENY** the Type 2 Design Alternative in form requested by the Scottish Rite Park, Inc. described above, to **APPROVE** the Type 2 Design Alternative in form most recently recommended by the City Staff described above allowing pedestrian crossing on western edge of the current drive, and to make the following findings of fact and objections regarding the Type 2 Design Alternative as proposed by the Scottish Rite Park, Inc.:

- a. Under Municipal Code Section 135-8.5.2, sidewalks are required as identified in the City's Transportation Master Plan.
- b. The subject property is located along Woodland Avenue and 28<sup>th</sup> Street.
- c. The frontage along Woodland Avenue and 28<sup>th</sup> Street are priority one sidewalk gaps within the City's Transportation Plan, MoveDSM.
- d. Such sidewalk installation would provide connectivity and walkability for the subject property and surrounding properties.



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- e. Scottish Rite Park, Inc.'s proposal for the Type 2 Design Alternative to the requirements of Section Code Section 135-8.5.2 are for full waiver, resulting in no sidewalk installations being required along Woodland Avenue and 28<sup>th</sup> Street, and it is based on preference, rather than need.
- f. City Planning staff recommended approval of the Type 2 design alternative with the condition that Scottish Rite Park, Inc. install a sidewalk on Woodland Avenue from the western property line to east of the existing driveway in order to make a crosswalk connection with the southern sidewalk across Woodland Avenue at the 29<sup>th</sup> Street intersection, in lieu of the Type 2 design alternative for full waiver of Section Code Section 135-8.5.2 as requested by Scottish Rite Park, Inc.
- g. Scottish Rite Park, Inc. have not met the burden required to demonstrate that their requested design alternative met the criteria for approval or that the result of the design alternative would equal or exceed the result of compliance with the Planning and Design Ordinance.
- h. Scottish Rite Park, Inc. have not shown that their 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.
- i. Scottish Rite Park, Inc. have not shown that their requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- j. The Type 2 Design Alternative as proposed by Scottish Rite Park, Inc. should not be approved for the reasons stated above.

### Alternative C

MOVED BY \_\_\_\_\_ to **APPROVE** the Type 2 Design Alternative in form requested by the Scottish Rite Park, Inc. described above and to make the following findings of fact and objections regarding the Type 2 Design Alternative as proposed by the Scottish Rite Park, Inc.:

- a. Under Municipal Code Section 135-8.5.2, sidewalks are required as identified in the City's Transportation Master Plan.
- b. The subject property is located along Woodland Avenue and 28<sup>th</sup> Street.
- c. There is no sidewalk connection on Woodland Avenue and 28<sup>th</sup> Street from the adjoining properties.
- d. Any sidewalk installation would have no existing connection to the west and north since the neighboring properties currently lack a sidewalk.
- e. There are existing utilities and grading increases within the subject property near the required sidewalk installation area, and any associated maneuvering or additional steps during installation of the sidewalk with utilities near such installation and grading increases carry additional financial and administrative burdens for Scottish Rite Park, Inc.
- f. Scottish Rite Park, Inc.'s proposal for the Type 2 Design Alternative to the requirements of Section Code Section 135-8.5.2 are for full waiver, resulting in no sidewalk installations being required along Woodland Avenue and 28<sup>th</sup> Street, and it is based on the lack of necessity for the sidewalk at this location with no existing connection and the additional burden such installation would create.

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- g. Scottish Rite Park, Inc. have met the burden required to demonstrate that the requested design alternative meet the criteria for approval and that the result of the design alternative would equal or exceed the result of strict compliance with Sections 135-8.5.2 of the Planning and Design Ordinance.
- h. Scottish Rite Park, Inc. have 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.
- i. Scottish Rite Park, Inc. have shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- j. Said Type 2 Design Alternative, in form requested by Scottish Rite Park, Inc., should be, and hereby, approved for the above-stated reasons and incorporated into the approved Site Plan for the Property.

SECOND BY

Simonson

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill,  
Assistant City Attorney

(SITE-2024-000132)

Council Member Voss declares a conflict of interest and abstains from voting.

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| BOESEN         | ✓    |      |      |        |
| COLEMAN        | ✓    |      |      |        |
| GATTO          | ✓    |      |      |        |
| MANDELBAUM     | ✓    |      |      |        |
| SIMONSON       | ✓    |      |      |        |
| * VOSS         |      |      |      |        |
| WESTERGAARD    | ✓    |      |      |        |
| TOTAL          | 6    |      |      |        |

MOTION CARRIED

APPROVED

Connie Boesen

Mayor

**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.

Laura Baumgartner

City Clerk