

★ Roll Call Number

21-1070

Agenda Item Number

3

Date July 12, 2021

**RESOLUTION HOLDING HEARING ON APPEAL BY FAREWAY STORES, INC.
OF DENIAL OF SITE PLAN AND TYPE 2 DESIGN ALTERNATIVES
FOR PROPERTY LOCATED AT 2716 BEAVER AVENUE AND 2723 41ST PLACE**

WHEREAS, on June 3, 2021, the City Plan and Zoning Commission voted 7-3 to **DENY** a request from Fareway Stores, Inc. (owner), represented by Garrett Piklapp (officer), for approval of a Site Plan for property located at 2716 Beaver Avenue and 2723 41st Place (collectively "Property"), to allow redevelopment with a 7,759-square foot Storefront building type for Limited Retail Sales use and including Type 2 design alternatives to (1) allow one entrance fewer than the two required entrances on a primary frontage facade, calculated at one entrance per 45 feet of primary frontage required pursuant to Municipal Code Section 135-2.5.3.D.20, and (2) to allow 41% transparency on the ground floor of the primary frontage facade, which requires a minimum of 65% transparency pursuant to Municipal Code Sections 135-2.5.3.D.18 and 135-3.8.3; and

WHEREAS, Fareway Stores, Inc. has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9.B seeking to have the Site Plan, including both above-described Type 2 design alternatives thereto, approved, and has provided updated renderings showing additional transparency on the ground floor of the primary frontage facade as included in the attached communication from Fareway Stores, Inc.; and

WHEREAS, on June 28, 2021, by Roll Call No. 21-0969, it was duly resolved by the City Council that the appeal be set down for hearing on July 12, 2021 at 8:00 A.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 Site Plan for property located at 2716 Beaver Avenue and 2723 41st Place, and denial of the Type 2 design alternatives described above, are hereby received and filed.
2. The communications from the Plan and Zoning Commission and from Fareway Stores, Inc., respectively, are hereby received and filed.

Alternative A

MOVED BY Gray to **APPROVE** the proposed Site Plan and Type 2 Design Alternatives described above, subject to compliance with the updated renderings provided by Fareway Stores, Inc. and received herewith, and to all administrative review comments, and to the following conditions to be added as notes to the Site Plan (if any):

Date July 12, 2021

and to make the following findings of fact in support of approval of the proposed Site Plan and Type 2 Design Alternatives:

- a. The Property has an irregularly shaped corner lot and has maximized the building build-to-zone along the Beaver Avenue frontage.
- b. The desired character and operational programming layout of the retail facility has pushed backhouse operations, storage, and restrooms to the periphery of the Storefront building proposed on the Property with a main entrance to the parking lot to the west and a single frontage entrance to the east, which make it infeasible to achieve the 65% minimum transparency providing more than the one entrance proposed on the street facing facade.
- c. Fareway Stores, Inc. has updated its site plan, in form received herewith, to increase transparency on the street-facing facade of the proposed Storefront building and to more closely conform to the requirements of Sections 135-2.5.3.D.18 and 135-3.8.3 of the Planning and Design Ordinance.
- d. City Planning staff recommend approval of the Site Plan and Type 2 Design Alternatives, subject to compliance with the updated renderings provided by Fareway Stores, Inc. and received herewith.
- e. The applicant has met the burden required to demonstrate that the requested design alternatives meet the criteria for approval and that the result of the design alternatives would equal or exceed the result of strict compliance with Sections 135-2.5.3.D.18, 135-2.5.3.D.20, and 135-3.8.3 of the Planning and Design Ordinance.
- f. The applicant has shown that the 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.
- g. The applicant has shown that the requested design alternatives will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- h. Said Type 2 Design Alternatives should be approved for the above-stated reasons, and therefore the Site Plan incorporating said Design Alternatives should be approved.

Alternative B

MOVED BY _____ to DENY the proposed Site Plan and Type 2 Design Alternatives described above, and to make the following findings of fact and objections regarding the proposed Site Plan and Type 2 Design Alternatives:

- a. Des Moines Municipal Code Section 135-2.5.3.D.20 of the Planning and Design Ordinance, applicable to Storefront buildings in MX3 zoning districts, requires two entrances on a primary frontage facade, calculated at one entrance per 45 feet of primary frontage.
- b. Des Moines Municipal Code Sections 135-2.5.3.D.18 and 135-3.8.3 of the Planning and Design Ordinance, applicable to Storefront buildings in MX3 zoning districts, requires a minimum of 65% transparency on the ground floor of the primary frontage facade.

Date July 12, 2021

- c. The proposed Type 2 Design Alternatives would allow for one entrance fewer than the two required entrances on a primary frontage facade and allow 41% transparency on the ground floor of the primary frontage facade.
- d. Denying the proposed Type 2 Design Alternatives would enhance the design and character of, and pedestrian accessibility to, the building and would be more consistent with the character of the surrounding commercial corridor.
- e. The applicant 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 strict compliance with Sections 135-2.5.3.D.18, 135-2.5.3.D.20, and 135-3.8.3 of the Planning and Design Ordinance.
- f. The applicant has not shown that the 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.
- g. The applicant 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.
- h. The site plan should not be approved as submitted in form requiring said Type 2 Design Alternatives and said Type 2 Design Alternatives should not be approved for the reasons stated above.

FORM APPROVED:

/s/ Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

(10-2021-7.48)

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

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.

MOTION CARRIED APPROVED

 Mayor


 City Clerk



simonson
SIMONSON & ASSOCIATES ARCHITECTS LLP



SIMONSON
SIMONSON & ASSOCIATES ARCHITECTS LLP


FAREWAY STORES, Inc

Corporate Office

715 8th Street, Boone, IA 50036-0070

515.432.2623 | Fax 515.433.4416

June 18, 2021

City of Des Moines
 Attn: Glenna K. Frank
 Assistant City Attorney
 400 Robert D. Ray Drive
 Des Moines, IA 50309

RE: Fareway Stores, Inc. – Beaverdale – Site Plan Appeal

SENT VIA EMAIL TO: Glenna K. Frank at gkfrank@dmgov.org

Ms. Frank,

Pursuant to Des Moines Municipal Code (135-9.3.4.C and 135-9.3.9.B), Fareway Stores, Inc. (“Fareway”) respectfully requests an appeal following the Plan and Zoning Commission’s review and denial of Fareway’s Site Plan and Type 2 design alternatives on June 3, 2021.

Following a 4-6 vote, the Commission recommended Fareway work with City staff on several design changes. On June 8, 2021, Fareway met with staff to discuss the following recommendations:

- 1. City staff recommends a portion of the spandrel glass be removed to give the building a “Beaverdale” look.**
- 2. City staff recommends the NE corner of the building be modified to add transparent windows to urbanize and focalize this corner of the building.**
- 3. City staff recommends adding a fully functional entrance/exit into the building from Beaver or Urbandale Avenue.**

Following our meeting, Fareway worked with its design and operational team to review each issue. Included with this letter, please find an updated rendering, site plan, and fixture plan illustrating each modification. Additional documentation may be supplemented prior to our appeal date for further review.

Recommendation 1. Fareway removed portions of the spandrel glass and replaced it with additional red brick and ornamental brick detailing on the building to better accommodate the “Beaverdale” neighborhood feel. Elevated transparent windows were added on the north wall for natural light and more transparency. It’s our understanding this issue has been resolved with City Staff.

Recommendation 2. Fareway has amended its fixture plan and building elevations to accommodate this request. This required moving and removing fixtures, bathrooms, coolers,

shelving, etc.) and adding awnings. But this has resulted in additional transparent windows being added to the NE corner of the building allowing pedestrians to see inside, further urbanizing the building and bringing focus to the NE corner of the development. It's our understanding this issue has been resolved with the City Staff.

Recommendation 3. The final and only remaining issue is recommendation 3. Adding another entrance/exit to either Beaver or Urbandale Avenue brings significant security and liability concerns to Fareway. Another entrance also reduces our operational footprint, because we would have to remove trade fixtures, and further diminishes the functionality of an already difficult development site. We are attempting to put a neighborhood store on a non-square .89-acre parcel. However, our proposed entrance, patio, and bike rack are all located between the parking lot and sidewalk on Urbandale Ave. And our proposed changes above bring additional urban design to the building by increasing visibility to pedestrian traffic on Beaver Ave. and bringing additional focus to the NE corner of the building. We have accomplished this all while adding additional brick to the exterior for a more "Beaverdale" feel.

Building materials have been ordered (as lead times are very long), and bids awarded, and contractors scheduled. Any further delay in this project may jeopardize not only the acquisition of the neighboring parcel, but the project moving forward if we lose contractors or have incorrect building materials.

Fareway respectfully requests the decision of the Plan and Zoning Commission be overturned. Over the course of 18 months, we have worked hard to bring Beaverdale a much-needed service that meets Fareway's high standards, the neighborhood's high standards, and the City's high standards on a unique site. We are proud of this project and hope to move forward with the support of Council to bring Des Moines it's first Fareway Meat Market.

We appreciate the Council's consideration.

Sincerely,



Koby M. Pritchard
Attorney | Real Estate Manager



July 2, 2021

To Whom it May Concern,

To maintain the walkability and pedestrian friendliness of the Beaverdale business district, the Beaverdale Neighborhood Association [BNA] Board of Directors has voted to recommend to the City of Des Moines City Council that the proposed Fareway development at 2718 Beaver Avenue be made to include a prominent pedestrian point of access either on Beaver Avenue or at the corner of Beaver and Urbandale Avenues. The BNA Board of Directors encourages Fareway to consult with City of Des Moines staff toward amending its site plan to incorporate such a point of access.

A handwritten signature in black ink, appearing to be "CFriest". The signature is stylized with a long horizontal stroke extending to the right.

Chris Friest

Beaverdale Neighborhood Association Vice President