



Roll Call Number

23-1085

Agenda Item Number

27

Date August 7, 2023

RESOLUTION SETTING HEARING ON APPEAL OF LARRY KUEL (OWNER) ON A DENIAL OF TYPE 2 DESIGN ALTERNATIVES FOR A PUBLIC HEARING SITE PLAN FOR PROPERTY LOCATED AT 4424 SOUTHEAST 14TH STREET

WHEREAS, at a public hearing held on July 20, 2023, the City Plan and Zoning Commission considered a request from Larry Kuel (owner), for approval of the Site Plan for Type 2 Design Alternatives waiving the requirements to allow for retention of two (2) access drives on a primary street, when an access drive off of a non-primary street is available set forth in Municipal Code Sections 135-2.6.3.A.9 and 135-6.12.2.B, and landscaping requirements related to street trees, parking lot buffering, and interior parking lot landscaping, as outlined in City Code Sections 135-7.5.3, 135-7.7.2, and 135-7.9 as shown in the Site Plan submitted for the property located at 4424 Southeast 14th Street; and

WHEREAS, pursuant to Sections 135-2.6.3.A.9 and 135-6.12.2.B of the Municipal Code, a commercial cottage is permitted driveway access through the following hierarchy: they are permitted driveway access through an improved alley; if no improved alley exists or is planned, they are allowed one driveway off each non-primary street; if no alley or nonprimary street exists, they are allowed one driveway off a primary street with approval of city engineer; and

WHEREAS, in the Site Plan, Larry Kuel proposed for retention of two (2) access drives on a primary street, when an access drive off of a non-primary street is available; and

WHEREAS, pursuant to Section 135-7.5.3 of the Municipal Code, street trees shall be planted as follows:

- A. Clear Branch Height. The clear branch height of a street tree is the distance between the ground plane and the lowest branch of the street tree at maturity. Minimum clear branch height is eight feet for the portion of street trees overhanging sidewalks and 15 feet for the portions of street trees overhanging streets.
- B. Street Tree Type. All street tree types shall conform to the city’s approved tree species list and shall be single trunk.
- C. Street Tree Locations and Spacing. Street trees shall be planted as follows:
 - 1. Minimum per Street Frontage. Each lot is required to have one tree for every 30 feet of street frontage, with a minimum of one street tree per street frontage.
 - 2. Location. Street trees shall be located within the parkway of the street type pursuant to the city’s most recent transportation master plan.
 - 3. Intersections; Street Lights. Street trees shall be located a minimum distance from the intersection of two streets per the vision clearance triangle and clear zone requirements of the city engineer, and shall be located a minimum of 15 feet, or other distance required by the city engineer, from street lights.



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4. Proximity to Paving. Street trees shall be located a minimum of two feet from any permanently paved edge or surface, unless otherwise regulated by Iowa Department of Transportation regulations for arterial streets.
5. Limited Space. The requirement to provide street trees may be waived by the development services director for existing streets, as follows:
 - a. In the DX districts, where there is no combination of public or private land sufficient to provide a minimum six-foot sidewalk with a minimum four-foot parkway.
 - b. In all districts except the DX districts, where there is no combination of public or private land sufficient to provide a minimum five-foot sidewalk with a minimum four-foot parkway.
 - c. In areas deemed not appropriate by city engineer based upon typology and function of street per the city's transportation master plan.; and

WHEREAS, pursuant to Section 135-7.7.2 of the Municipal Code, a fence frontage buffer has the following requirements:

- A. Buffer Depth. The required buffer area shall be a minimum seven feet in depth, measured from the street-facing lot line. When a building is located on the lot adjacent to the vehicular area, the buffer depth shall be measured seven feet from the street facade of the rear building wall.
- B. Fence. The following apply within the buffer:
 1. Fence Location. A continuous fence is required, located two feet from the back of curb or edge of the vehicular area into the buffer. One pedestrian opening, maximum four feet in width, is permitted for every 30 linear feet of fence.
 2. Fence Materials. The fence shall be black, gray, or dark green steel. Masonry columns up to a maximum 2.5 feet in width and base up to a maximum 18 inches in height are permitted. Other fence materials may be submitted for a Type 1 design alternative.
 3. Fence Height. The fence shall be three feet in height. A Type 1 design alternative may be approved for a fence height up to six feet.
 4. Fence Opacity. The fence shall have a minimum opacity of 30%.
- C. Buffer Landscape. The following landscape is required within the buffer:
 1. Shade Trees. Shade trees are required at one shade tree for every 40 linear feet of frontage buffer. Where feasible, spacing of the buffer trees shall alternate with street trees.
 2. Shrubs. A continuous shrub planting is required on the street side of the fence. Ornamental grasses may be used when screening is not a required effect. The shrub planting shall consist of a single row of shrubs with a minimum mature width of 24 inches each, spaced no more than 36 inches on center, and height maintained no more than 48 inches within one year of installation.
 3. Existing Vegetation. Existing vegetation may be credited toward buffer requirements as approved by the development services director.; and



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WHEREAS, pursuant to Section 135-7.9 of the Municipal Code, interior parking lots have the following requirements:

7.9.1 INTENT AND APPLICABILITY

- A. Intent. To provide shading and screening, and to improve the appearance of parking lots.
- B. Applicability. This section applies to all off-street surface parking lots in all districts with more than 10 spaces or more than one drive aisle.
- C. Existing Vegetation. Existing vegetation may be credited toward these requirements when, and to the extent, approved by the development services director.

7.9.2 REQUIREMENTS

A. Required Landscape Islands

- 1. Terminal End Islands. Landscape islands are required at the terminal ends of freestanding rows or bays of parking. Freestanding rows or bays of parking are those not abutting the parking lot perimeter or building face, and may have a single or double row of parking.
- 2. Row Islands. For rows of parking with more than eight spaces, a landscape island is required for every ninth parking space with result of no more than eight continuous parking spaces in a row without a landscape island.
- 3. Island Size. The minimum width for an island is five feet and minimum length is 17 feet.
 - a) Islands shall accommodate the minimum tree requirements of Table 135-7.4-5 of this article.
 - b) Islands that do not meet the requirements of Table 135-7.4-5 of this article may be required to install an aeration system and utilize permeable paving as approved by the city forester.
- 4. Required Island Trees. A minimum of one single trunk, shade tree is required within each island.

B. Tree Requirements

- 1. Fifty-foot Rule. Each parking space shall be located within 50 feet of a tree planted within the parking lot interior.
- 2. Five-Space Rule. For parking lots with more than 40 spaces, a minimum of one shade tree for every five parking spaces shall be planted within the parking lot interior or within four feet of the parking lot's edge.
- 3. Buffer Trees. Trees within any required buffer area may not be utilized to meet these requirements.
- 4. Shading Requirement. At maturity, tree canopies shall shade a minimum of 30% of the interior of the parking lot. Refer to Table 135-7.4-2 of this article for mature canopy sizes.

C. Sidewalk Requirements

- 1. A minimum five-foot wide, continuous sidewalk shall connect the public sidewalk along all street frontage to all public doors of the building.
- 2. Crossings at vehicular areas may count as continuing the sidewalk as long as the sidewalk material shall continue through the vehicular area to signal pedestrian priority.; and



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WHEREAS, in the Site Plan, Larry Kuel proposed for the waiver of landscaping requirements related to street trees, parking lot buffering, and interior parking lot landscaping; and

WHEREAS, the Plan and Zoning Commission voted 8-0-1 for DENIAL of the requested Type 2 Design Alternatives to waive or modify said ordinance requirements to allow for retention of two (2) access drives on a primary street and landscaping requirements related to street trees, parking lot buffering, and interior parking lot landscaping; and

WHEREAS, Larry Kuel 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 denial of the above-described Type 2 design alternatives to the Site Plan including requirement to remove two (2) access drives from a primary street, when an access drive off of a non-primary street is available set forth in Municipal Code Sections 135-2.6.3.A.9 and 135-6.12.2.B, and landscaping requirements related to street trees, parking lot buffering, and interior parking lot landscaping, as outlined in City Code Sections 135-7.5.3, 135-7.7.2, and 135-7.9.

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

1. The City Council shall consider the appeal by Larry Kuel at a public hearing in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 5:00 p.m. on August 21, 2023 at which time the City Council will hear both those who oppose and those who favor the proposals.
2. The City Clerk is hereby authorized and directed to publish notice of said hearing in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.

MOVED BY Latto TO ADOPT. SECOND BY Boesen

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill, Assistant City Attorney

(SITE-2023-000059)



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

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.

MOTION CARRIED

APPROVED

J. M. Franklin Cownie Mayor

Laura Baumgartner

City Clerk