



CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT AGENDA

October 27, 2021

MEETING TO BEGIN AT 1:00 PM IN THE 2ND FLOOR BOARD ROOM
WITHIN THE CITY'S MUNICIPAL SERVICE CENTER AT
1551 EAST MARTIN LUTHER KING, JR. PARKWAY, DES MOINES, IA 50317.

Due to the increased community transmission of COVID-19 in Polk County, we have implemented a face covering requirement in City buildings. The requirement applies to both staff and the visiting public. If you do not have a face covering, one will be provided for you.

PURPOSE OF BOARD OF ADJUSTMENT:

The Zoning Board of Adjustment has the power under Iowa law and the Zoning Ordinance of the City of Des Moines (City Code Chapter 134) to hear requests and make decisions on matters such as Variances and Exceptions from the regulations in the Zoning Ordinance, Conditional Use Permits, Special Permits, and appeals of the decisions of City staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:

The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the general public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The law applicable to each case is identified in the written staff report. If the facts, as determined by the Board, demonstrate that the criteria established by law for granting the request have been satisfied, then the Board must grant the request. Otherwise, the Board must deny the request. All speakers are requested to focus their comments upon those facts that demonstrate whether or not the criteria established by law have been satisfied. *All material used as part of any presentation must be submitted as a part of the permanent record and will not be returned.*

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report, unless an individual or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Non-Consent Public Hearing Items portion of the agenda. Each appeal will be announced in the order it appears on the agenda and then City staff will present a brief explanation of the appeal. Any written comments received by staff prior to the hearing will be distributed to the Board for review.

All speakers are requested to start their presentation by giving their name and address. After staff introduces a request, the appellant or a representative of the appellant is allowed to speak first, and will be allowed ten minutes to present the appeal. Anyone else speaking in support of the appeal will then each be allowed five minutes to present their comments. Anyone speaking in opposition to the appeal will then be allowed five minutes each to present their comments. The appellant/representative will then be allowed three minutes for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a decision. The decision and the reason will be announced.

The Board has 7 members. It takes the affirmative vote of at least 4 members to grant any appeal, regardless of the number of members actually present at any meeting. If 5 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

Following the meeting, any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

If you have questions, please contact City staff at 515-283-4743 or visit the Zoning Board of Adjustment's website at <http://www.dmgov.org/government/boards/ZoningBoardofAdjustment>.

***** **BEGIN CONSENT PUBLIC HEARING ITEM** *****
 ***** **ITEMS 1 through 10** *****

Each item listed on this portion of the agenda will be reviewed in turn by the Board, at which time the Item will either be approved or forwarded to the Non-Consent Public Hearing portion of the agenda for further discussion and action.

Item 1	ZBOA-2021-000026	Polk County Iowa	901 2nd Avenue Conditional Use
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Appellant: Polk County Iowa, represented by Kami Rankin, 12130 128th Street, Granger, IA 50109.
Premises Affected: 901 2nd Avenue.
Legal Description: On file with Development Services Department.
Current Zoning: “F” Flood District.
Applicable Neighborhood Association: None, Adjacent to Historic East Village.

Proposal: Conditional Use to allow use of the property, from April to December each year, for 5 years (through December 2026), to allow two (2) food trucks within the turn-around area each week and to allow two (2) special events within the Lauridsen Skatepark each month.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a “Temporary Use” in a “F” District.

Required by City Code Section 134-3.10

Item 2	ZBOA-2021-000027	City of Des Moines	City of Des Moines Conditional Use
	Vicinity of 1553 Maury Street		

Appellant: City of Des Moines, represented by Dwayne Myers, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.
Premises Affected: 1553 Maury Street.
Legal Description: On file with Development Services Department.
Current Zoning: “I1” Industrial District.
Applicable Neighborhood Association: None.

Proposal: Relocation of the City’s Greenhouse Operation “Nursery or Truck Farm” use to include an approximate 4,752-square foot greenhouse, along with outdoor storage and growing areas, and multiple accessory structures.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a “Nursery or Truck Farm” use in an “I1” District.

Required by City Code Table 134-3.1-1 & Section 134-3.7.3

Item 3	ZBOA-2021-000028 Vicinity of 1100 East Beardsley Street	Scott and Angela Wise Conditional Uses
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Appellant: Scott and Angela Wise, 141 Wood Crest Dr Palmyra, PA 1707.
Premises Affected: Vicinity of 1100 East Beardsley Street
Legal Description: On file with Development Services Department.
Current Zoning: “EX” Mixed-Use District.
Applicable Neighborhood Association: None.

Proposal: Use of the property for a winery use, including multiple structures and outdoor areas, for a “Bar” or “Other” use, with sales of wine for on-premise consumption and off-premise consumption.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a “Bar” or “Other” use selling wine for on-premise consumption and off-premise consumption.

Conditional Use (per City Code Section 134-6.4) for a “Crop Production” use within an “EX” District.

Required by City Code Section 134-3.1, Table 134-3.9-1, & 134-6.4

Item 4	ZBOA-2021-000030 401 Southeast 6th Street	Connolly Lofts Associates Limited Partnership Type 2 Zoning Exception
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Appellant: Connolly Lofts Associates Limited Partnership, represented by Anthony Sinclair, 501 SE 5th Street, Unit: 1, Des Moines, IA 50309
Premises Affected: 401 Southeast 6th Street.
Legal Description: On file with Development Services Department.
Zoning: “DX2” Downtown Mixed-Use District.
Applicable Neighborhood Association: Historic East Village Neighborhood Association.

Proposal: Installation of a 7.17-foot by 6.83-foot (48.99 square feet) wall-mounted sign on the fourth floor of the north façade of the building and installation of a 7.17-foot by 6.83-foot (48.99 square feet) wall-mounted sign on the fourth floor of the west façade of the building, for a combined 97.98-square feet of signage area.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-5.3.5) of two (2) wall mounted signs over the maximum zero (0) wall-mounted signs allowed for an occupant within the fourth floor of a building in a “DX2” District.

Type 2 Zoning Exception (per City Code Section 134-5.3.5) of 97.98 square feet of signage area over the maximum zero (0) square feet of wall-mounted signage area allowed for an occupant within the fourth floor of a building in a “DX2” District.

Required by City Code Table 134-5.6-1

Item 5	ZON-2021-000033 101 63rd Street	U-Haul Real Estate Company, Conditional Use
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Appellant: U-Haul Real Estate Company, represented by Randy Bowlby, 115 East Hickory Street, Suite 300, Mankato, MN 550001.
Premises Affected: 101 63rd Street.
Legal Description: On file with Development Services Department.
Current Zoning: “MX3” Mixed Use District.
Applicable Neighborhood Association: None.

Proposal: Construction of 3-Story building, totaling approximately 102,954 gross square feet, for a “Self-Service Storage” use.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Self-Service Storage” use in an “MX3” Mixed-Use District.

Required by City Code Table 134-3.1-1 & Section 134-3.5.16

Item 6	ZBOA 2021-000039 6150 Southeast 14th Street	JP Morgan Chase Bank NA Type 2 Zoning Exception
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Appellant: JP Morgan Chase Bank NA, represented by Kenneth J. Colliander, 1111 Polaris Parkway, Columbus, Ohio 43240.
Premises Affected: 6150 SE 14th Street.
Legal Description: On file with Development Services Department.
Zoning: “MX3-V” Mixed-Use District.
Applicable Neighborhood Association: South Park Neighborhood Association.

Proposal: Installation of seven (7) wall-mounted signs on the east frontage wall, including the following:

- Three (3) illuminated lane designator signs that would each be 1.21-foot by 2.58-foot (3.13 square feet each).
- Two (2) clearance signs that would each be 3-foot by 0.83-foot (2.49-square feet square feet each).
- Two (2) illuminated wall signs that would each be 39.9-square feet each.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6.1) for five (5) wall signs over the maximum two (2) wall signs allowed.

Required by City Code Table 134-5.6-1 & Section 134-5.6.4

Item 7	ZBOA 2021-000043 611 5th Avenue	611 Fifth Avenue, LLC Type 2 Zoning Exception
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Appellant: 611 Fifth Avenue, LLC, represented by Gerard Neugent, 5000 Westown Parkway, West Des Moines, IA 50266. The business would be operated by The Weitz Company represented by Chris Schweers, 5901 Thornton Avenue, Des Moines, IA 50321.

Premises Affected: 611 5th Avenue. The tenant space is located on 1st, 3rd, and 4th floors.

Legal Description: On file with Development Services Department.

Zoning: “DX2” Downtown Mixed-Use District.

Applicable Neighborhood Association: Downtown Des Moines Neighborhood Association.

Proposal: Installation of a 5.5-foot by 11.88-foot (65.34 square feet) wall-mounted sign on the fourth floor of the west façade of the building and a 5.5-foot by 11.88-foot (65.34 square feet) wall-mounted sign on the fourth floor of the north façade of the building, for a combined 130.68 square feet of signage area, where the signs would identify an occupant of the building.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6) of two (2) wall-mounted signs over the maximum zero (0) wall-mounted signs allowed for an occupant within part of the first floor, all of the third floor, and all of the fourth floor of the building.

Type 2 Zoning Exception (per City Code Section 134-6.6) of 130.68 square feet of signage area over the maximum zero (0) square feet of wall-mounted signage area allowed for an occupant within part of the first floor, all of the third floor, and all of the fourth floor of the building.

Required by City Code Section 134-5.3.5, Table 134-5.6-1, & 134-6.6

Item 8	ZBOA 2021-000044 2590 Hubbell Avenue	2590 Investors LLC Type 2 Zoning Exception
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Appellant: 2590 Investors, LLC, represented by Jackson Givens, 7979 East Titus Avenue, Suite 1125, Denver, CO 80237. The business would be operated by CubeSmart Self Storage represented by Bob Gibson, 3405 SE Crossroads Drive Grimes, IA 50111.

Premises Affected: 2590 Hubbell Avenue.

Legal Description: On file with Development Services Department.

Zoning: “MX3” Mixed-Use District and “F” Flood District.

Applicable Neighborhood Association: Fairmont Park Neighborhood Association.

Proposal: Installation of one (1) monument sign, 12-foot by 6-foot with 72-square feet of sign area in a Flood District.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6) of the provision that only does not allow monument signage in a Flood District.

Required by City Code Section 134-5.3.5, Table 134-5.6-1, & 134-6.6

Item 9	ZBOA-2021-000045 Vicinity of 1734 East 12th Street	Cellco Partnership (dba Verizon Wireless) Conditional Use
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Appellant: Cellco Partnership (dba Verizon Wireless), represented by Jeff Armour, 4002 South 149th Circle, Omaha, NE 68137. The proposed small wireless facility would be located within the City of Des Moines’ public Right-of-Way.
Premises Affected: Vicinity of 1734 East 12th Street. (Within public Right-of-Way adjoining 1732 East 12th Street.)
Legal Description: On file with Development Services Department.
Zoning: “N5” Neighborhood District.
Applicable Neighborhood Association: Union Park Neighborhood Association.

- Proposal:** Installation of a “Small Wireless Facility” on a replacement light pole owned by MidAmerican Energy. The pole is located within the public Right-of-Way along the west side of East 12th Street immediately in front of the street side yard of 1732 East 12th Street, which is property zoned and used exclusively for single-household residential.
- Appeal(s):** Conditional Use (per City Code Section 134-6.4) for siting of a small wireless facility on a utility pole that is on property zoned and used exclusively for single-household residential.

Required by City Code Sections 134-4.5.4 & Table 134-4.2-1

Item 10	ZBOA-2021-000046 Vicinity of 1123 44th Street	Cellco Partnership (dba Verizon Wireless) Conditional Use
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Appellant: Cellco Partnership (dba Verizon Wireless), represented by Jeff Armour, 4002 South 149th Circle, Omaha, NE 68137. The proposed small wireless facility would be located within the City of Des Moines’ public Right-of-Way.
Premises Affected: Vicinity of 1123 44th Street. (Within public Right-of-Way adjoining 1121 44th Street)
Legal Description: On file with Development Services Department.
Zoning: “N5” Neighborhood District.
Applicable Neighborhood Association: Waveland Neighborhood Association.

- Proposal:** Installation of a “Small Wireless Facility” on a replacement light pole owned by MidAmerican Energy. The pole is located within the public Right-of-Way along the east side of 44th Street immediately in front of the street side yard of 1121 44th Street which is property zoned and used exclusively for single-household residential.
- Appeal(s):** Conditional Use (per City Code Section 134-6.4) for siting of a small wireless facility on a utility pole that is on property zoned and used exclusively for single-household residential.

Required by City Code Sections 134-4.5.4 & Table 134-4.2-1

******* END CONSENT PUBLIC HEARING ITEMS *******

***** **BEGIN DISCUSSION PUBLIC HEARING ITEMS** *****

Item 11	ZBOA-2021-000031 3121 Forest Avenue	Neighborhood Development Corporation Type 2 Zoning Exception
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Appellant: Neighborhood Development Corporation, represented by Abbey Gilroy, 2331 University Avenue, Suite 202, Des Moines, IA 50311. The business would be operated by Casey's General store represented by Elara Jondle, 2323 Dixon Street, Des Moines, IA 50316.

Premises Affected: 3121 Forest Avenue.

Legal Description: On file with Development Services Department.

Zoning: "MX1" Mixed-Use District.

Applicable Neighborhood Association: Drake Neighborhood Association.

Proposal: Installation of the following four (4) wall signs earned from the south facade:

- One illuminated sign, 63-square feet in area.
- One illuminated sign, 24-square feet in area.
- One non-illuminated sign, 8.56-square feet in area
- One illuminated sign, 39.28-square feet in area on the east non-occupant wall.

And, installation of the following four (4) wall signs earned from the west façade:

- One illuminated sign, 39.28-square feet in area.
- One illuminated sign, 10.09-square feet in area, on the north non-occupant wall.
- One illuminated sign, 24-square feet. on the north non-occupant wall.
- One non-illuminated sign, 8.56-square feet, on the north non-occupant wall.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6) for two signs over the two signs earned on the south frontage.

Type 1 Zoning Exception (per City Code 134-6.6) 25.34 square feet over the 107.5 square feet of sign area earned on the south frontage.

Type 2 Zoning Exception (per City Code Section 134-6.6) for two signs over the two signs earned on the west frontage.

Type 2 Zoning Exception (per City Code Table 134-6.6) 32.55 square feet over the 49.38 square feet of sign area earned on the west frontage.

Type 2 Zoning Exception (per City Section 134-6.6) to allow an illuminated wall sign on the north facade facing an NX or N District.

Required by City Code Table 134-5.6-1, 134-5.3.3, 134-5.3.5, & Section 134-5.3.4b

Item 12	ZBOA-2021-000034	Do-Da, LLC	Vicinity of 1623 East 17th Street Conditional Use
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Appellant: Do-Da, LLC, represented by Mike Swift, 3910 11th Place Des Moines, IA 50316
Premises Affected: Vicinity of 1623 East 17th Street
Legal Description: On file with Development Services Department.
Current Zoning: "I2" Industrial District.
Applicable Neighborhood Association: None.

Proposal: Use of the property for a "Junk and Salvage" use to allow recycling within an existing warehouse building and outdoor storage yard.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a "Junk or Salvage" use in an "I2" Industrial-Use District.

Required by City Code Table 134-3.1-1 & Section 134-3.6.4

Item 13	ZBOA-2021-000037	DLE Four Way, LLC,	2312 University Avenue Conditional Use
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Appellant: DLE Four Way, LLC, represented by Christian Murray, P.O.BOX 187, Ankeny, IA, 50021. The business would be operated by JK African Stores, Kuak Diew, 2312 University Avenue, Des Moines, IA 50311.
Premises Affected: 2312 University Avenue (the business would be within a tenant bay known as 2312 University Avenue).
Legal Description: On file with Development Services Department.
Current Zoning: "MX2" Mixed Use District.
Applicable Neighborhood Association: Drake Neighborhood Association.

Proposal: Use of a 1,200-square foot tenant bay for a "Retail Sales, Limited" use with sales of wine and/or beer. As a "Retail Sales, Limited" use, no more than 40% of gross receipts from sales could be derived from the sale wine, beer, and/or tobacco products.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a "Retail Sales, Limited" use selling wine and/or beer for off-premise consumption in the "MX2" District.

Required by City Code Table 134-3.1-1, Table 134-3.9-1, & Section 134-6.4

Item 14	ZBOA-2021-000040 506 East 6th Street	RE Properties, LLC, Conditional Use
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Appellant: RE Properties, LLC, represented by Tim Rypma, 512 1/2 East Grand Avenue, Des Moines, IA 50309-1922. The business is operated by Marv’s Records, LLC, represented by Loyd Ogle, 301 East Walnut Street, Suite 2, Des Moines, IA 50309.

Premises Affected: 506 East 6th Street

Legal Description: On file with Development Services Department.

Current Zoning: “DX2” Downtown Mixed-Use District.

Applicable Neighborhood Association: Historic East Village Neighborhood Association.

Proposal: Sale of wine and/or beer for on-premise consumption during special events that are held accessory to a Retail use (records and/ music sales) that operates within a 1,318-square foot tenant space.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for an “Other” use with sales of wine and beer for on-premise consumption in the “DX2” Downtown Mixed-Use District.

Required by City Code Section Table 134-3.1-1, Table 134-3.9-1, & 134-6.4

Item 15	ZBOA 2021-000041 334 SW 8th Street	Storage Five Des Moines, LLC Type 2 Zoning Exception
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Appellant: Storage Five Des Moines, LLC, represented by Paul Rzewuski, 1120 N Ridge Ave Lombard, IL 60148.

Premises Affected: 334 Southwest 8th Street.

Legal Description: On file with Development Services Department.

Zoning: “DXR” Downtown District.

Applicable Neighborhood Association: Downtown Des Moines Neighborhood Association.

Proposal: Installation of one (1) projecting sign, 23-foot by 4.33-foot with two (2) 99.59-square foot sign faces, with a cumulative 199.18 square feet of signage area where the sign would provide at least 9 feet of vertical clearance above the sidewalk, and where such sign would be internally illuminated.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6) of 99.18 square feet over the maximum 100 square feet of signage allowed.

Required by City Code Section Table 134-5.6-1 & 134-6.6

Item 16	ZBOA 2021-00000042 4000 Southwest 9th Street	Kingdom Living Iowa Conditional Use
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Appellant: Kingdom Living Iowa, represented Michael B. Madden, 4000 SW 9th Street, Des Moines, Iowa 50315. The business by operated by Kingdom Living Iowa represented by Gary Goudeock, 699 Walnut Street, Suite 2000, Des Moines, IA 50309.

Premises Affected: 4000 SW 9th Street.

Legal Description: On file with Development Services Department.

Current Zoning: “MX1” Mixed-Use District.

Applicable Neighborhood Association: Watrous South Neighborhood Association.

Proposal: Use of the property for a “Place of Assembly” use to allow a sober community clubhouse for conducting business and holding meetings of up to 200 attendees.

Appeal(s): Conditional Use (per City Code Section 134-6.4) for a “Place of Assembly” in a “MX1” District.

Required by City Code Section 134-3.4.2.B

****Approval of Minutes for the September 22, 2021 Zoning Board of Adjustment meeting.**

****Approval of Schedule of Meeting Dates for 2022.**