CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: September 7, 2021

ITEM: Maple Grove Church Shelter, 9155 Ashworth Road – Approve a Minor Modification Level 2 to allow an open-air shelter to be relocated on the site - Ron Sweeney – MML2-005282-2021

Resolution: Approval of Level 2 Minor Modification to Site Plan

Background: Ron Sweeney, Chair of the Board of Trustees, on behalf of the applicant and property owner, Maple Grove United Methodist Church, requests approval of the Level 2 Minor Modification to Site Plan for the approximately 3.58 acre property located at 9155 Ashworth Road. The applicant proposes to place an existing shelter back in the general location that it was before Ashworth Road was reconstructed to serve a community benefit for pedestrians and bicyclists using the trail that was installed with the roadway.

Staff Review & Comment:

- *Financial Impact:* No City funding of the project. Staff time for processing of development application.

- *History:* The property owned by the Maple Grove United Methodist Church was annexed into the City in November 2014. In June 2017, the City Council approved a land use designation for the property of High Density Residential and a zoning of Residential High Density. At the time of annexation, there was a smaller church on the property and an open-air shelter. In 2017, the City approved a site plan for a new, larger church. Also, around the same time, the City was planning the reconstruction and widening of Ashworth Road.

  The small church was located within the required right-of-way for the road and needed to be moved. The City needed to acquire additional right-of-way from the church and an agreement for the exchange of right-of-way involved the City's participation in moving the small church to the north.

  The move of the church also affected the shelter in that it too had to be moved from behind the church.

- *Key Development Aspects:* The key development aspect related to this request is that but for the widening of Ashworth this shelter would not have been required to move from its former location, which is approximately 35 feet from the current right-of-way/property line. Since the removal of the shelter was needed due to the widening of Ashworth Road, Staff recommends that the Plan & Zoning Commission and City Council allow the shelter to be reconstructed in its former location, which is not in compliance with the current front yard setback.

- *City Code Exemption:* In the event that a City project is contrary to City zoning regulations, the City Council may grant an exemption to the zoning regulations. Section 9-3-3.D.1.g of City Code states the following:

  > *Improvements undertaken by the City which the City Council determines serve a legitimate public purpose, but which may be contrary to or deviate from City zoning regulations shall be exempt from the requirements of the West Des Moines Code of Ordinances. (In this case, the improvement is the widening of Ashworth Road)*
  >
  > *In making its determination, the City Council shall consider: whether the improvement is necessary or appropriate for the convenience, service or welfare of the general public; whether there is a feasible alternative for the improvement, considering size, location or*

other relevant characteristics of the improvement; the extent to which the improvement is detrimental to adjoining or affected landowners or residents.

The City Council shall weigh these and any other factors it determines relevant and grant the exemption if it determines that, on balance, the benefit of the improvement to the health, safety and welfare of the community is greater than the burden created by exempting the improvement from the Code of Ordinances.

- *Conditions of Approval:*
  - *Open-Air Shelter* – the shelter, as it exists today, is open to the elements on all four sides which reduces the massing and presence of the structure. Staff is recommending that the shelter be allowed to be put back in the general vicinity of where it was prior to the road widening with the condition of approval that the shelter remain open on all four sides. The view through the shelter to the church is to be preserved allowing it to be the primary structure on the site and the shelter to be less noticeable and secondary.
  - *Events Involving the Shelter:* The shelter is to be for the use of the church, such as church picnics, and to allow informal use by pedestrians and bicyclists as a community benefit. Any formal gathering, such as yard sales, church fundraising, or non-church related activity will require the church to obtain a temporary use permit. The requirement of a temporary use permit is to preserve the informal use of the shelter as temporary use permits may be granted for only 16 days out of the year.
- *Vesting of Entitlement:* Per City Code, entitlement (approval to construct or implement) shall remain in effect so long as substantial site work has progressed beyond grading and completion of structural foundations and twenty-five percent (25%) of the total building area has occurred above grade within twenty-four (24) months of the effective date of the approval, unless a greater time period is authorized at time of the original entitlement, or by approval of an extension of the original entitlement. It is the responsibility of the developer to be aware of this deadline and request an extension of the approval prior to the expiration date.

Outstanding Issues: There are no outstanding issues.

Plan and Zoning Commission Action:

Date:	August 23, 2021
Vote:	5-0 for approval, Commissioners Andersen and Costa absent
Recommendation:	Approval of Site Plan

Recommendation: Approve the Level 2 Minor Modification to Site Plan request, subject to the applicant meeting all City Code requirements, and the following conditions of approval:

1. That the City Council allow the shelter to be located in the same general area as it was prior to the City obtaining additional right-of-way for the widening of Ashworth Road and relocation of the original church building.
2. That the shelter remains open on all four sides unless it is relocated to comply with all building setback regulations adopted at the time of enclosure of the shelter.
3. That temporary use permits will be obtained for non-church activities or church fundraising activities involving the use of the shelter.

Lead Staff Member: Kara Tragesser, AICP

Approval Meeting Dates:

Plan and Zoning Commission	August 23, 2021
City Council:	September 7, 2021

Staff Report Reviews:

Plan & Zoning Commission	☒ Development Coordinator (or) ☒ Director	☒ Legal Department
City Council	☒ Director ☐ Appropriations/Finance	☒ Legal Department ☐ Agenda Acceptance

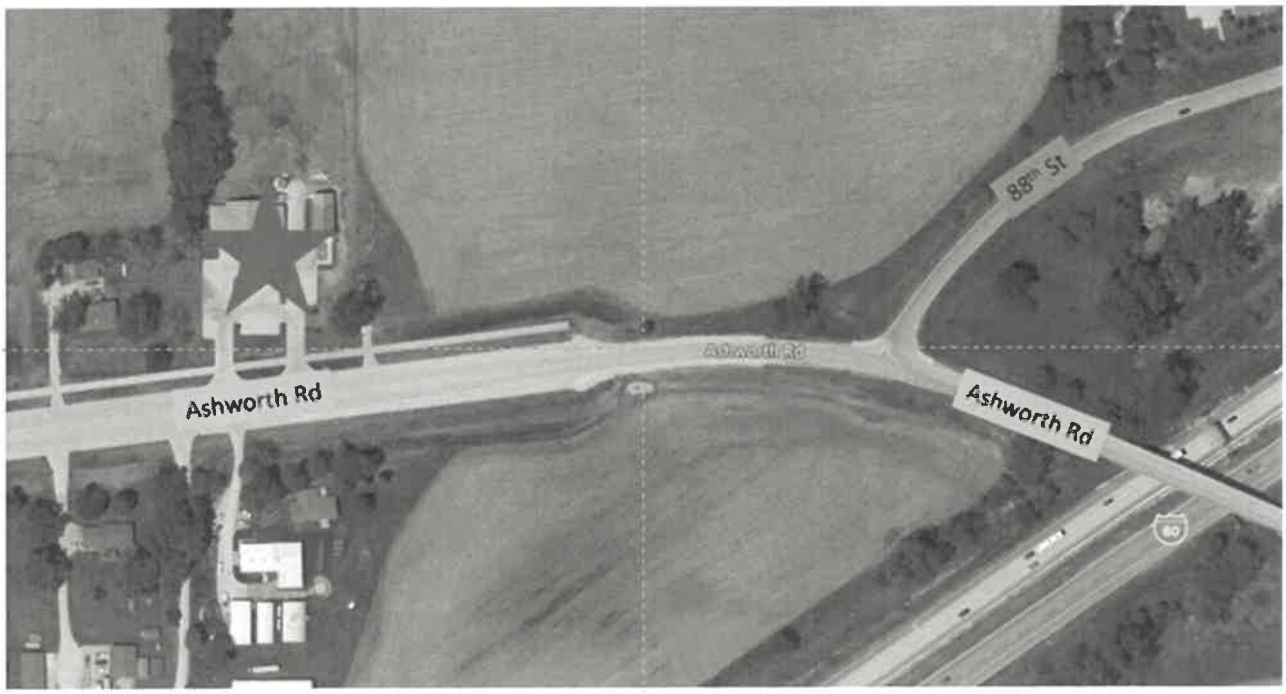
Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a
Date(s) of Mailed Notices	n/a

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning
Date Reviewed	8/16/21
Recommendation (not required)	☐ Yes ☐ No ☐ Split

Location Map



A RESOLUTION OF THE PLAN AND ZONING COMMISSION
NO. PZC-21-074

WHEREAS, pursuant to the provisions of Title 9, Zoning of the West Des Moines Municipal Code, the applicant, Ron Sweeney, Chair of the Board of Trustees for the property owner, Maple Grove United Methodist Church, requests approval of the Level 2 Minor Modification to Site Plan for the approximately 3.58-acre property located at 9155 Ashworth Road as depicted on the location map included in the staff report. The applicant requests approval to relocate an open-air shelter 35 feet from the current right-of-way/property line; and

WHEREAS, the Minor Modification Level 2 request complies with the findings stated in the applicable provisions of the Comprehensive Plan and City Code.

WHEREAS, the Minor Modification Level 2 request complies with the findings stated in the applicable provisions of Title 9 based on the application of Section 9-3-3.D.1.g, as stated in the staff report.

NOW THEREFORE, the Plan and Zoning Commission of the City of West Des Moines recommends the City Council approve the Level 2 Minor Modification to Site Plan (MML2-005282-2021), subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

PASSED AND ADOPTED on August 23, 2021.

Jennifer Drake, Vice Chair
Plan and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting on August 23, 2021,

by the following vote:

AYES: Conlin, Crowley, Davis, Drake, Hatfield

NAYS:

ABSTENTIONS:

ABSENT: Andersen, Costa

ATTEST:

Recording Secretary

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept., PO Box 65320, West Des Moines, Iowa 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING A MINOR MODIFICATION LEVEL 2 TO ALLOW THE RELOCATION OF AN OPEN-AIR SHELTER ON THE PROPERTY

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant, Ron Sweeney, Chair of the Board of Trustees, on behalf of the property owner, Maple Grove United Methodist Church, requests approval of Minor Modification Level 2 for that property located at 9155 Ashworth Road and legally described in attached Exhibit 'B' for the purpose of relocating an open-air shelter, original to the site, at 35 feet from the current right-of-way/property line; and

WHEREAS, studies and investigations were made, and staff reports, and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

WHEREAS, the Minor Modification Level 2 complies with findings stated in the applicable provisions of the Comprehensive Plan and City Code; and

WHEREAS, the Minor Modification Level 2 request complies with the findings stated in the applicable provisions of Title 9, Chapter 1, Subsection 8 based on the application of Section 9-3-3.D.1.g, as stated in the staff report.

WHEREAS, on August 23, 2021, the Plan and Zoning Commission recommended to the City Council, by a 5-0 vote, for approval of the Minor Modification Level 2; and

WHEREAS, on this day the City Council held a duly noticed meeting to consider the application for the Minor Modification Level 2.

NOW, THEREFORE, The City Council does approve the Maple Grove United Methodist Church Shelter Minor Modification Level 2 (MML2-005282-2021), subject to compliance with all of the conditions of approval, including any conditions added at the meeting, attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on September 7, 2021.

_____
Steven K. Gaer, Mayor

_____
Ryan Jacobson, City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on September 7, 2021, by the following vote.

Exhibit A: Conditions of Approval

1. That the City Council allow the shelter to be located in the same general area as it was prior to the City obtaining additional right-of-way for the widening of Ashworth Road and relocation of the original church building.
2. That the shelter remains open on all four sides unless it is relocated to comply with all building setback regulations adopted at the time of enclosure of the shelter.
3. That temporary use permits will be obtained for non-church activities or church fundraising activities involving the use of the shelter.

Exhibit B: Legal Description

Beginning at the Southwest Corner of the Southeast Quarter of Section 3 Township 78 Range 26 thence north 10 rods thence east 13 rods thence south 10 rods thence west 13 rods to the place of beginning; and

Parcel A of Parcel B as shown on the Plat of Survey recorded at Book 2011 Page 7682, dated November 16, 2017 and recorded at the Dallas County, Iowa, Recorders Office,

Except

As shown on the Acquisition Plat and described in the Warranty Deed recorded at Book 2019 Page 4872, dated April 10, 2019 and recorded at the Dallas County, Iowa, Recorders Office

All located within the City of West Des Moines, Dallas County, Iowa.

Maple Grove UMC 9155 Ashworth Road

Legend

- Corporate Limits
- Parcels

439.0 0 219.50 439.0 Feet

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Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Maple Grove UMC 9155 Ashworth Road

Legend

- Corporate Limits
- Parcels

140.3 0 70.15 140.3 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

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