

**Appeal:** The appellants request a front yard setback Variance of approximately 20 feet for a proposed permanent commercial greenhouse structure, as well as a building separation variance between two (2) proposed non-residential structures of approximately six (6) feet.

**Background**

The subject property is located at 4600 NW 51<sup>st</sup> Street, Des Moines. The property is approximately 1.31 acres in size, and is legally described as -EX RD- LOTS 88, 89 & S 1/2 LOTS 90 & 91 PIEKENBROCK, being within Section 18 of Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. (Webster Township). The property is zoned "NB" Neighborhood Business District, with conditions. The larger surrounding area includes the unincorporated neighborhoods of Lovington and Piekenbrock. This area is bordered on the north by Interstate 80/35, to the south by Meredith Drive, to the west by Merle Hay Road (Hwy 28), and to the east by Beaver Avenue. The area is primarily zoned "LDR" Low Density Residential District and developed with single-family homes. There are also a few existing commercially zoned and utilized properties along the north side of Meredith Drive approaching Merle Hay Road as well as along the east side of Merle Hay Road extending north towards the Interstate. The City of Des Moines primarily lies south of Meredith Drive, but their corporate limits include some commercial property on the east side of Merle Hay Road as well as a few residential developments on the north side of Meredith Drive. The City of Urbandale corporate limits begin along the west side of Merle Hay Road. The City of Des Moines corporate limits are located directly adjacent to the south on the opposite side of Meredith Drive. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The property is "L" shaped having frontage on three (3) sides, including to the south adjacent to Meredith Drive, to the east adjacent to NW 51<sup>st</sup> Street and to the west adjacent NW 52<sup>nd</sup> Street. Historically, the subject property and existing surface parking lot were designed and utilized for overflow parking for the adjacent Meredith Drive Reformed Church, located directly south of Meredith Drive within the City of Des Moines at 5128 Meredith Drive. The appellants have utilized the subject property for the last several years as overflow parking for Dogpatch Urban Gardens located directly east of the subject property at 5085 Meredith Drive. The appellants own this adjacent property at 5085 Meredith Drive, which contains an existing single-family dwelling, detached garage, as well as a greenhouse structure and additional accessory building used as a retail storefront. The Polk County Board of Adjustment approved a Conditional Use Permit in 2017 for this adjacent property for an Agri-tourism use known as Dogpatch Urban Gardens. The appellants recently purchased the subject property and rezoned the ground from the "LDR" Low Density Residential District to the "NB" Neighborhood Business District, with conditions. Those conditions limited the commercial uses on the property to commercial retail, services and office. The owners are currently in the review process with County staff to redevelop the property for retail sales of agricultural goods and seasonal products. The redevelopment plans include two (2) permanent commercial greenhouse structures, a proposed storage building and outdoor retail sales area. Through this review process it was determined that the proposed layout could not meet the minimum setback requirements and building spacing requirements, therefore the owners have requested two (2) variances as detailed below.

## **Summary of Request**

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 5, Non-Residential Bulk Standards, Table 6.9* requires a minimum front yard setback of 50 feet for non-residential structures along arterial, collector and local roadways within the “NB” Neighborhood Business District. This section of the Ordinance also requires a minimum building spacing of 30 feet between non-residential structures within the “NB” Neighborhood Business District. The proposed redevelopment site plan for the subject property includes two (2) permanent commercial greenhouse structures at 30' x 88' (2,640 SF) each. The appellants propose the easterly of these structures at a front yard setback of approximately 30 feet from the eastern, front property line along NW 51<sup>st</sup> Street, in lieu of the required 50-foot front setback. They also propose the separation between the structures at 24 feet, in lieu of the required 30 feet. See *Attachment B* to this report for a copy of the proposed layout and setbacks.

Staff mailed out 107 notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. Staff will provide a summary of all responses received at the public hearing on May 16, 2022.

## **Natural Resources**

The topography of the subject property is relatively flat with little to no change in elevation. Existing contour data indicates the site elevation is between 884 and 886 feet. The property is not located within any designated floodplain areas, and contains no other known environmental hazards or features. There are several mature trees located on the site, primarily along the southern property line bordering Meredith Drive, as well as within the northwestern portion of the property. A majority of these trees will be preserved through the site redevelopment.

## **Roads & Utilities**

The property is “L” shaped having frontage to the south onto Meredith Drive, to the east onto NW 51<sup>st</sup> Street and to the west onto NW 52<sup>nd</sup> Street. There is an existing driveway entrance to the west onto NW 52<sup>nd</sup> Street, and two (2) existing driveway entrances to the east onto NW 51<sup>st</sup> Street. Meredith Drive is classified as a minor arterial roadway connecting Beaver Avenue to the east to other arterial and local streets moving west. Meredith Drive runs along the municipal boundary between the City of Des Moines and unincorporated Polk County between Beaver Avenue to the east and Merle Hay Road (Hwy 28) to the west. The City of Des Moines is responsible for routine maintenance of this stretch of Meredith Drive in accordance with the 28-E agreement between Des Moines and Polk County. NW 51<sup>st</sup> Street and NW 52<sup>nd</sup> Street are classified as local roadways. They are hard surfaced, but contain narrow roadway widths and rights-of-way and have relatively steep drainage ditches on both sides. NW 51<sup>st</sup> Street and NW 52<sup>nd</sup> Street are maintained by Polk County and provide access to properties north of Meredith Drive within the unincorporated neighborhoods of Lovington and Piekenbrock.

Water service is available through Des Moines Water Works. Current available mapping shows there is an existing 12-inch (12") water main along Meredith Drive, an eight-inch (8") main along NW 52<sup>nd</sup> Street as well as a two-inch (2") line along NW 51<sup>st</sup> Street. The appellants will connect to the 12-inch (12") main along Meredith Drive to serve the property. Water service will only be for irrigation purposes. The proposed use will not require wastewater treatment.

## **Recommendation**

**Variance Request #1:** Front yard setback variance of approximately 20 feet (from 50 feet to 30 feet) to allow the proposed easterly permanent commercial greenhouse structure to be setback 30 feet from the eastern, front property line adjacent to NW 51<sup>st</sup> Street.

**The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.**

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?  
Yes. The subject property contains street frontage, and corresponding front yard setback requirements, along three of its four property lines. This unique configuration limits the available building envelope, and effectively makes the property unable to accommodate reasonable commercial redevelopment, but for the granting of a variance.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  
Yes. The property was recently rezoned to “NB” Neighborhood Business District, with conditions restricting the available commercial uses. The proposed retail sales use is permitted under the current zoning and conditions.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
Yes. There will be no negative impact upon adjacent properties. The required 30 feet of setback from adjacent residential properties to the north and west will be maintained, and the appellants are required to install street and peripheral buffer yard landscaping/screening. The proposed 30 feet of front yard setback from NW 51<sup>st</sup> Street will not cause any issues along the adjacent roadway or intersection with Meredith Drive.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. The property's current configuration and multiple frontages is an existing condition and was not created by the appellants.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?  
Yes. The appellants are required to meet the environmental provisions of the Polk County Zoning Ordinance. No such provisions will be impacted by this variance request.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance.

**Variance Request #2:** Building spacing variance of approximately six (6) feet (from 30 feet to 24 feet) to allow reduced separation between the two (2) proposed permanent commercial greenhouse structures.

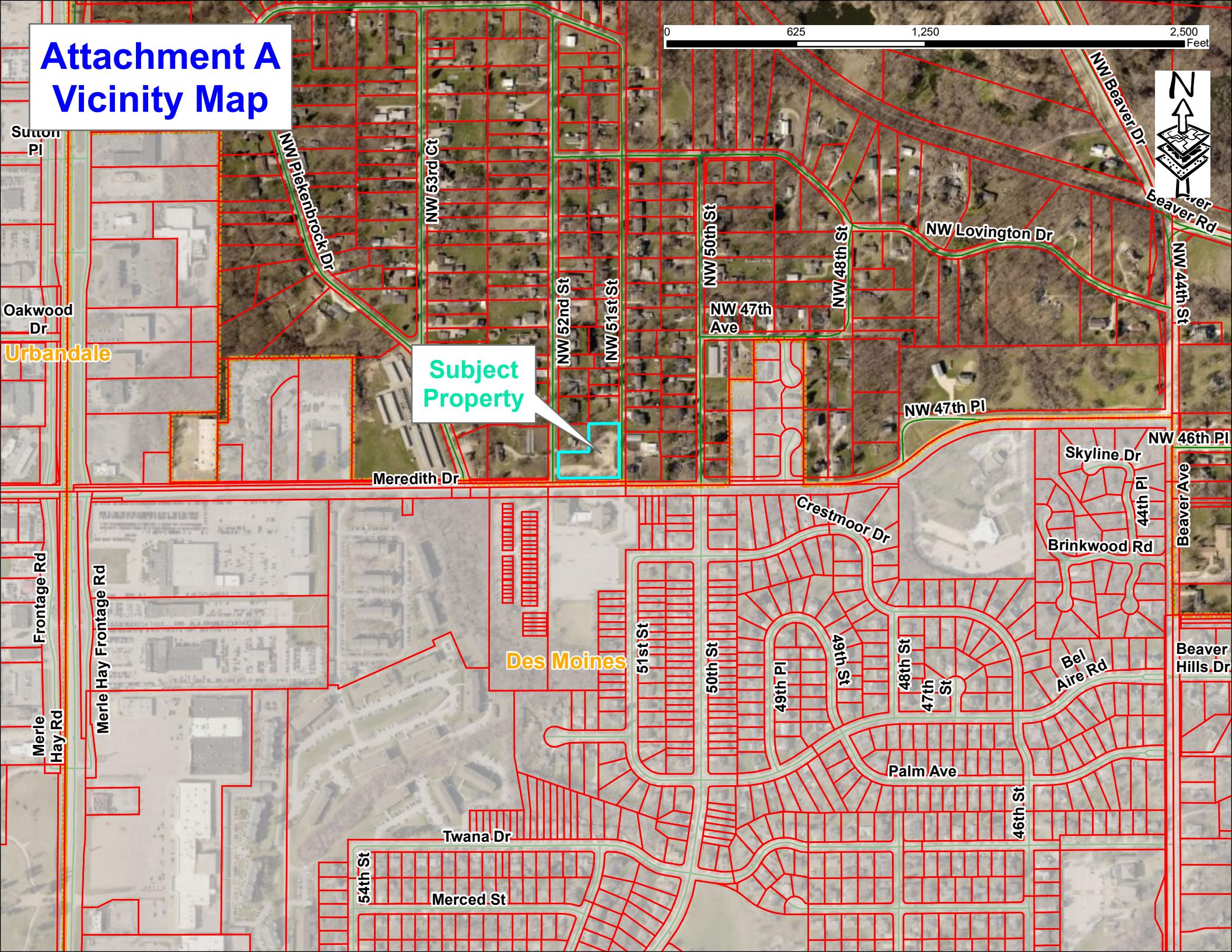
**The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.**

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?  
Yes. The subject property contains street frontage, and corresponding front yard setback requirements, along three of its four property lines. This unique configuration limits the available building envelope and space available to meet the required 30 feet of non-residential building separation.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  
Yes. The property was recently rezoned to “NB” Neighborhood Business District, with conditions restricting the available commercial uses. The proposed retail sales use is permitted under the current zoning and conditions.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
Yes. There will be no negative impact upon adjacent properties. Approval of this variance allows the proposed redevelopment to maintain the required 30 feet of setback from adjacent residential properties to the north and west. The 24 feet of separation proposed still allows for adequate vehicle circulation between the structures, should that be necessary in the future.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. The property’s current configuration and multiple frontages is an existing condition and was not created by the appellants. Furthermore, prior ownership of the property was responsible for the existing surface parking lot on the site, and the appellants are attempting to reuse and repurpose as much of the existing pavement as possible through this request.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?  
Yes. The appellants are required to meet the environmental provisions of the Polk County Zoning Ordinance. No such provisions will be impacted by this variance request.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance.

# Attachment A

## Vicinity Map



## Attachment B

