

December 31, 2018

Mr. Bob Kost
SEH, Inc.
10901 Red Cir Drive, Suite 300
Minnetonka, MN 55343

Re: Review of the Marshalltown Zoning Ordinance

Dear Mr. Kost:

The Scope of Services for the Marshalltown Downtown Plan includes a review of the current Marshalltown Zoning Ordinance. The purpose of this review is to assess how effective the development control regulations of current ordinance are in shaping the downtown into a vital, active and successful place. This review will assess the current ordinance in terms of how it controls the form and function of the downtown, as well as the administrative procedures to carry out these controls.

Before discussing specific provisions of the ordinance, some general comments about the ordinance will be useful to establish context. Overall, the Marshalltown Zoning Ordinance is severely outdated, and as such, should not be expected to contain state-of-the-art regulations or procedures to successfully control development in the downtown. This is not to say that the ordinance fails to provide basic regulation in the downtown, but rather, it does not provide the level of control and guidance needed to support a vital and successful downtown.

The intent of this memo is to assess the current ordinance to identify the components of the ordinance that need upgrading to provide the control and guidance needed to align with the forthcoming downtown plan. At this early stage of the planning process, providing a general assessment of the current ordinance's regulation of downtown development is adequate to inform the City and the Planning Team of the enhancements needed in the ordinance to implement the plan's vision for the downtown. Greater detail will be provided as part of the plan implementation element of the downtown plan on the specific areas of ordinance revision needed. The general assessment provided in this memo is organized by topic headings, below.

Administrative Provisions

A key aspect of any zoning ordinance is how the regulations are administered, that is, put into effect and enforced. Good regulations that are poorly administered and enforced are of little value. The existing ordinance's administrative provisions are one of the weakest parts of the ordinance. The ordinance provides for wide discretionary review/control over the design and layout of development in the downtown, but does not have mechanisms to enforce this discretionary control. The ordinance has provisions for site plan review of development proposals, but the site plan review committee, comprised of key City staff, has been disbanded and the site plan review process is no longer performed. While alternatives exist, the site plan review process is the only mechanism within the Ordinance to exert quality control, thus the termination of the site plan review process leaves a major gap in the administrative provisions.

Reliance of Discretionary Review

The current ordinance relies on discretionary review to achieve qualitative control over downtown development. Qualitative control is very important to the success of the downtown because the downtown relies on its physical setting to attract people and activity. Qualitative control includes architectural design, streetscape, signage, landscaping and other physical design elements. Here is an example of the discretionary powers granted in Chapter 22: CBD Central Business District, Section 4.2: *The architectural design of any building must be acceptable to be approved by the City.* The section goes on to describe some of the architectural characteristics it deems appropriate, but is nonetheless vague and arbitrary. This section is so broad and ill-defined that it is virtually unenforceable, and there is no mechanism of enforcement detailed in the ordinance. Similar references to discretionary authority were found elsewhere in the ordinance.

The current state-of-the-art in zoning regulation relies on clear standards and specifications to delineate the physical design elements, rather than on discretionary review, which relies on the judgement of appointed administrators or committees to determine the appropriate physical design elements. Discretionary review often leads to arbitrary results because the judgement of the persons conducting the review will vary. Upgrading the ordinance to include clear standards and specifications for the physical design element to be required in downtown development is the recommended approach.

Permitted and Special Uses

The current ordinance relies on lists of specific uses to achieve control over permitted and special uses. Only the specific uses listed are allowed and uses not listed are not allowed. The specific uses listed in the “retail trade” portion of Chapter 29, Table of Commercial Uses, include: *Clothing and Clothing Accessory Stores, Computer and Software Stores, and Hardware Stores.* Since “bookstores” are not listed, they would not be allowed. The use “Used Merchandise Stores” are allowed, so perhaps a used books store might be allowed. This approach of relying on specific use lists is imprecise and outdated.

Current state-of-the-art in zoning regulation relies “generic uses” to control permitted and special uses. Generic uses represent categories of uses rather than specific individual uses. Generic uses are carefully defined in the definitions chapter and any uses that meets that definition would be allowed. Examples of generic uses include: a) retail goods establishment (any retail use or store selling merchandise directly to the public); b) retail service establishment (any use that provides a service to the public in a retail setting); and c) eating and drinking establishments (any use that sells prepared food and beverages for consumption on the premises). Generic uses automatically exclude other uses that are defined in the definitions chapter, so that an “adult use” would be distinguished from a “retail goods establishment.” Development control within the downtown would benefit by adopting the generic use approach in place of the current specific use controls.

Zoning District Purpose Statements

Each zoning district of classification should begin with a “purpose statement” that communicates the intent of the district, establishing the context for the regulations within the district. The ordinance lacks purpose statements for most districts, including the CBD District.

The CBD District

Most zoning ordinances have one or more downtown zoning districts to guide growth and development. Downtown zoning districts typically have regulations intended to preserve and/or reinforce the special urban character of the downtown. These regulations can include build-to lines, pedestrian orientation/features, window area on ground floor, building materials, etc.

The CBD District in the current zoning ordinance has some regulations to preserve/enhance the special character of the downtown. Some appear to be effective but some do not, as discussed below:

Permitted and Special Uses. The comments made earlier in this memo about the Ordinance's organization of permitted and special uses also apply to the CBD District. The CBD District references Chapter 30 (which is actually Chapter 29), Table of Commercial Uses for the listing of permitted and special uses. The overall organization of permitted and special uses is workable, though outdated. The Table of Commercial Uses focuses on business uses and does not address residential, public, and civic uses adequately, which are key components of a synergistic mix of downtown uses. It designates establishments that serve alcoholic beverages ("drinking places") as special uses, which is an unnecessary burden since they already need to obtain a liquor license. There are also many odd terms used for uses, such as "performing arts companies," which is an enterprise, instead of using a term of use, such as "performing arts theater." A detailed assessment of the permitted and special use structure should be done as part of an ordinance amendment process. The **Existing Uses** section seems peculiar and unnecessary since a good set of nonconformity provisions should address these issues. Also, adult uses are not addressed in Chapter 29, but should be to ensure they are not permitted in the CBD District.

Section 3. Performance Standards. These standards contain a combination of useful and ineffective regulations:

1. The general prohibition against noxious conditions (noise, dust, odor, etc.) and unsightly appearance is not effective.
2. The prohibition against outdoor storage and display is a good policy, but the provision is poorly worded.
3. The requirement that all parking areas in the CBD are subject to City approval is not enforceable.
4. Prohibiting parking adjacent to the right-of-way is a good idea, although it could be better written.

Section 4. Architectural Standards. The ten architectural standards of this Section are generally ineffective, as discussed below:

1. This standard calls for a unifying architectural theme, which is a good idea, but needs to be expressed in terms of the types of features that would accomplish this. The use of illustration would help communicate the intent of this standard. The ordinance contains virtually no illustrations, which clearly identifies it as an outdated ordinance.
2. The control over architectural design expressed in this standard is not well expressed and mixes regulation of overall design with restrictions on materials. The requirement that

all architectural design be approved, in a discretionary manner, by the City is unenforceable.

3. Direction on building materials should be based on the materials used on existing buildings, especially if promoting historic character is to be a key strategy.
4. Building setbacks should be controlled by build-to lines, which can be customized for each block of the downtown.
5. Doorways do not need to be recessed, but entry doors adjacent to the public sidewalk need to swing in, not out.
6. Having historic sign controls is a good idea, and will be discussed in a separate section.
7. This standard addresses signage. Since the provisions of the Historic District Sign Requirements (see last section in memo) take precedent, this standard is not applicable.
8. Requiring all utilities to be placed underground *where feasible* is a good idea. The caveat of “where feasible” is too vague. The City should have a plan for the location of underground utilities in the downtown area.
9. The diversion of stormwater runoff underground is also a good idea, and the City should have a plan for this as well, rather than leaving it as a “when feasible” proposition.
10. Regulating paint colors is difficult to do. There are historic colors and historic color palettes that can be referenced, as is done in the Ordinance. However, there is much more to color harmony in architectural design than defining color palettes. As written, this provision is not effective.

Section 5. Housing. This section of the CBD District is very odd, and consists only of two subsections. Subsection 1 states that no new single family dwellings are permitted. Section 2 states that “residential units in mixed use buildings shall be permitted on the first floor if the units are located to the rear of non-residential uses and not visible from the public right-of-way.

Residential use needs to be effectively regulated in a downtown area. How residential uses should be regulated in Marshalltown’s CBD will be addressed in the plan. More liberal regulation of residential uses is the trend, recognizing the positive impact residential use has on a downtown area.

Section 6. Bulk Requirements. This section appears to have some flaws. Separate yard standards are required for single family uses, which complicates this section. The regulations apply to “existing dwellings” because no new single family dwellings are permitted. However, nonconformity provisions that prohibit the expansion on a nonconforming residential use in the CBD District might be a better approach. Skillful mapping of the CBD District boundaries should minimize the number of single family uses. Section 6 does not contain any density standards for residential use in the downtown, expressed as lot area per unit. This appears flawed, especially if expanding residential use in the CBD District is desired. Although not likely to occur, the 9 story height limit could allow for extremely dense residential development in the CBD District.

Parking Requirements. Special parking requirements are often provided for downtowns because they are unique areas that have different parking needs from other parts of the community. In some communities, parking requirements for downtown areas are reduced because there is usually on-street parking and public off-street parking. Also, requiring too much off-street parking can act to separate uses and lessen critical synergy. Some municipalities take on the responsibility for

providing downtown parking in publicly owned lots, and require property owners to pay into a fund instead of providing their own parking on-site.

The current ordinance does not require on-site parking in the CBD District, except that residential units must provide parking at a rate of 1 parking space per unit and this parking can be located off-site with the approval of the zoning administrator. Given current demand for parking downtown, exempting the CBD from parking requirements is appropriate. Should the downtown become more vital and active, with greater demand for parking, some requirement for parking or a payment in lieu of parking could be appropriate.

Landscaping Requirements

Chapter 6, Buffering and Landscaping Requirements, establishes standards for buffering and landscaping. The trend in zoning has been to de-emphasize buffering as a solution to land use compatibility issues, but rather, to emphasize landscaping and site design requirements in general. Chapter 6 contains the following four sections: Section 1, Purpose; Section 2, Buffering Requirements; Section 3, Screening Requirements; and Section 4, Parking Lot Landscaping Requirements. Property in the CBD District is exempted from the requirements of Section 2 and Section 4. Exempting property in the CBD District from buffering requirements is clearly appropriate. Exempting property in the CBD District from all parking lot landscaping requirements is not appropriate. The downtown is home to a number of large employers and other uses that require large parking lots. Most of the parking lots in the downtown do not have landscaping.

Landscaping of parking lots, particularly along the street frontage, is important to bridge the activity void created by surface parking lots. It is common for zoning ordinances to require landscaping of parking lots in downtown areas. Land within downtown areas is typically expensive and the landscaping requirements for parking lots in downtown areas need to create effective screening within a small space. The use of decorative metal fencing as part of the landscape improvements is common. Three photographic examples of parking lot landscaping are shown below. The first shows a parking lot in downtown Marshalltown with no landscaping.

The second shows a parking lot in downtown Marshalltown with frontage landscaping, which while not well designed, is far better than no landscaping at all. The third example shows a landscaped parking lot in downtown Chicago.



1. Parking lot on Church Street east of 3rd Avenue



2. Parking lot on Church Street west of 3rd Avenue



3. Parking lot in downtown Chicago

Sign Regulations

Sign regulations are contained in Chapter 30 of the Ordinance. These regulations were reviewed for their influence on downtown revitalization. Chapter 30 has sign regulations for the CBD District as well as for the Marshalltown Historic District. The CBD District is larger in area than the historic district and the sign requirements of the CBD District would only apply to that portion of the CBD District that is located outside the historic district.

Overall, while the sign regulations are workable, they would benefit from a comprehensive review and updating. This Chapter would benefit greatly from the addition of illustrations that make it easier for the reader to understand sign types and regulations. Examples of useful sign illustrations are shown below.



The sign regulations for the historic district take the form of an appendix to Chapter 30. This appendix contains the following major sections: I. Intent and Purpose; II. Applicability; and III. Sign Requirements. Section II. Applicability delineates the boundaries of the historic district, which is the area of applicability of the historic sign regulations. Section II also defines the process for approval of a sign in the historic district, which is the sole responsibility of the zoning administrator. In most cases, the approval process for both the modification of historic buildings (including signs) and new construction would be vested in an appointed “historic commission.” It is understood that in a small community like Marshalltown it may be difficult to maintain a functioning historic district commission, although support for and participation in such a commission may be stronger than currently anticipated. If there is interest and support for a historic commission, this would be the preferred method for administering historic sign regulations.

The actual regulation of signs in the historic district takes the form of design guidelines and principles, which are used to support the decision by the zoning administrator on whether a proposed sign is appropriate for the district or not. The decisions of the zoning administrator are discretionary, that is, based on the zoning administrator’s judgement on whether a proposed sign is consistent with the historic sign regulations. The base sign regulations in Chapter 30 also apply to the historic district in terms of the types of signs permitted, the allowable sign area and other regulations, except where the regulations of the historic district are more restrictive. Reliance on discretionary decision making is unavoidable in historic districts for signs as well as building modifications and new construction. Written findings should be made to document how each decision is made in terms of the application’s relationship to the design guidelines.

Section III. Sign Requirements, contains the design guidelines and principles used in evaluating sign applications. It should be noted that the historic sign regulations are more current than the base sign regulations (Chapter 30) and include the liberal use of illustrations to explain the design guidelines and the affect desired in the historic district. Overall, these design guidelines are effective and define the considerations necessary to determine the appropriateness of a sign for its specific location within the historic district. This is not to say that improvements to the historic sign requirements are not needed, but that the current requirements provide an adequate basis for making good decisions.

Summary

It is Camiros' opinion that the current zoning ordinance is flawed and is not adequate to guide growth and development within downtown Marshalltown. It should be emphasized that this review of the ordinance focused on provisions that relate to the downtown, rather than a comprehensive review of the entire ordinance. However, in reviewing provisions that related to the downtown, it is clear that the entire ordinance is outdated, poorly organized, does not incorporate illustrations, tables and other user-friendly formatting and other features of a state-of-the-art ordinance. The Ordinance in its current form would not preclude the revitalization of the downtown, but would not provide the useful regulatory tools that would advance and promote revitalization.

One fundamental aspect of regulation of the CBD District merits emphasis. The CBD District covers an area larger than the historic downtown core. The characteristics of existing development surrounding the historic downtown core area are different than that within the core area. Consideration should be given to adopting special regulations within the historic core area, possibly in the form of an overlay district, to provide a higher level of qualitative/design control is this key part of the CBD District. A map showing the limits of the historic district versus the CBD District is provided on the following page. The aerial images showing existing buildings highlights the more compact urban form of the historic district versus the areas that are outside, but still in the CBD District.

Specific recommendations on how to upgrade the Marshalltown Zoning Ordinance to better advance downtown revitalization will be made part of the Downtown Plan. This initial review is intended to provide an indication of where upgrades are needed. It should be noted, however, that selective revisions of zoning regulations for the downtown only will likely be impractical, given ordinance-wide issues regarding ordinance administration, organization of permitted and special uses and other structural components of the ordinance. Thus, a comprehensive amendment (rewriting) the ordinance would be needed to establish truly effective regulations for advancing downtown revitalization.

