CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: August 24, 2015

ITEM: Breweries - Amend City Code Title 9 (Zoning) to add a definition for breweries, establish zoning districts in which the use is allowed and identify performance and parking standards – City Initiated (AO-002790-2015)

Ordinance: Approval of First Reading

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Twisted Vine Brewery has proposed a brewery, with tap room, to be located in a Regional Commercial zoning district. Under the current zoning code, breweries are allowed in the General Industrial, Light Industrial, and Business Park zoning districts. Recently, the City amended the zoning ordinance to allow tap rooms/beer parlors in conjunction with a brewery in these zones. Representatives from Twisted Vine Brewery met with the Development & Planning City Council Subcommittee to propose the location of the brewery with tap room at 3320 Weston Parkway, on a parcel immediately south of Valley West Mall. The Subcommittee supported the proposal and Staff recommended that the zoning ordinance be amended to allow breweries in commercial areas but with regulations controlling the size of the breweries allowed in order to address concerns with manufacturing components being visible to adjoining properties and the general public.

Plan and Zoning Commission Action:
Vote: 4-0 approval, Commissioners Andersen, Erickson, and Brown absent
Date: August 17, 2015
Motion: Adopt a resolution recommending the City Council approve the ordinance amendment.

OUTSTANDING ISSUES: There are no outstanding issues. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Request
- History
- City Council Subcommittee *(Development & Planning, July 16, 2015)*
- Staff Review and Comments
  - *Brewery versus Drinking Place (Bar)*
  - *Brewery/Tap Room Size*
  - *Square Footage of Tap Room*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the first reading to amend City Code to regulate breweries, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser

STAFF REVIEWS:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	RTA

S:___Development Projects\Ordinance Amendments\Micro Breweries\AO-002790-2015_SR_Micro Breweries_CC_1st_08-24-2015.doc

PUBLICATION(S) (if applicable)

Published In	*Des Moines Register*	
Date(s) Published	August 11, 2015	
Letter sent to surrounding property owners		N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development and Planning		
Date Reviewed	July 16, 2015		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution
- Attachment B - Proposed Rezoning Ordinance *(now Exhibit II)*

Exhibit II - Proposed Rezoning Ordinance

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION

Meeting Date: August 17, 2015

Item: Breweries - Amend City Code Title 9 (Zoning) to add a definition for breweries, establish zoning districts in which the use is allowed and identify performance and parking standards (AO-002790-2015)

Request Action: Approval of an amendment to the City Code

Case Advisor: Kara Tragesser, AICP

Applicant's Request: Twisted Vine Brewery has proposed a brewery, with tap room, to be located in a Regional Commercial zoning district. Under the current zoning code, breweries are allowed in the General Industrial, Light Industrial, and Business Park zoning districts. Recently, the City amended the zoning ordinance to allow tap rooms/beer parlors in conjunction with a brewery in these zones. Representatives from Twisted Vine Brewery met with the Development & Planning City Council Subcommittee to propose the location of the brewery with tap room at 3320 Weston Parkway, on a parcel immediately south of Valley West Mall. The Subcommittee supported the proposal and Staff recommended that the zoning ordinance be amended to allow breweries in commercial areas but with regulations controlling the size of the breweries allowed in order to address concerns with manufacturing components being visible to adjoining properties and the general public.

City Council Subcommittee: This item was discussed at the July 16, 2015, Development and Planning City Council Subcommittee. The subcommittee was supportive of changes to the ordinance.

Staff Review and Comment: There are no outstanding issues. Staff met with the representatives from the brewery to further understand small brewery operations. That information, combined with internet research, assisted Staff with drafting an ordinance which regulates small breweries in commercial zoning districts. Staff notes the following:

Brewery versus Drinking Place (Bar): With the proliferation of craft breweries and microbreweries combined with the increasing desire to have a tap room/beer parlor associated with the brewery, the line is being blurred between the traditionally industrial use of a brewery and the retail/commercial use of a tap room or drinking place. In March 2015, the City amended the zoning code to allow tap rooms/beer parlors (Drinking Places (SIC 5813)) in the industrial districts in conjunction with a brewery as a permitted conditional use. Now comes the question of allowing a business model of a small brewery with a tap room/beer parlor to locate within the city's commercial districts. Based upon discussions at the Subcommittee level and the support received from the City Council for the changes to allow tap rooms, Staff proposes the attached ordinance which provides for the regulation of small breweries in conjunction with a tap room/beer parlor in the commercial districts as a permitted conditional use, similar to the regulation of drinking places.

Brewery/Tap Room Size: The proposed size of Twisted Vine Brewery is 7,200 sq. ft., including tap room. Fox Brewery is 6,000 sq. ft. in size (the Board of Adjustment approved a permitted conditional use permit for a tap room for Fox Brewery located at 103 S. 11th Street in June 2015). Staff researched the size of comparable bars and restaurants with breweries in the area and they ranged in size from 5,000 sq. ft. to 9,000 sq. ft. Establishments such as Rock Bottom (8,400sf) and Granite City's (8,800sf) brewery component is viewed as ancillary to the primary use of a restaurant and with no noticeable production component to the exterior: the establishments are permitted as restaurant uses. In discussion with the owners of Twisted Vine Brewery, staff inquired about a reasonable size for a small brewery and tap room and where the tipping point was in the production capacity versus size of facility that could be used to limit the size of the brewery and tap room if the City were to expand the use into some of the commercial districts. This discussion led to identifying 10,000 sq. ft. as a maximum size of the building before a small brewery with tap room became too production oriented for the commercial zones and should be located in the industrial zones.

However, Staff feels that a 10,000 sq. ft. brewery with tap room is too large for Neighborhood Commercial and Valley Junction Historic Business District zoning districts; therefore, staff suggest limiting the size of a brewery with tap room/beer parlor to no more than 5,000 sq. ft. in those districts. The proposed size was, in part, determined by the size of a typical lot in the Valley Junction Historic Business district.

Square Footage of Tap Room: In the previous ordinance amendment approved in March 2015 regarding the size of the tap room, the ordinance provisions capped the size of the tap room at 20 percent of the gross square footage of the building. In part, the reasoning included the concept that the principal use of that business model was to be a brewery with the tap room ancillary and therefore the tap room should be a minor portion of the total square footage. After more consideration of the question of whether to regulate the brewery with tap room as a brewery or a bar, Staff proposes that a brewery with less than 50 percent of the gross square footage devoted to a tap room/beer parlor be regulated as a brewery with the tap room ancillary to the use. If the tap room comprises 50 percent or greater of the gross square footage of the brewery, the brewery would be regulated as a bar. A brewery over 10,000 sf with a tap room, or a brewery, regardless of size, without a tap room would be permitted only in the Business Park, Light Industrial, and General Industrial districts.

Noticing Information: On August 11, 2015, notice of the August 17, 2015, Plan and Zoning Commission and August 24, 2015 City Council public hearings for this project was published in the *Des Moines Register*.

Staff Recommendation and Conditions of Approval: Staff recommends the Plan & Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendment.

Attachments:

Attachment A – Proposed Resolution

Exhibit A – Proposed Ordinance

RESOLUTION NO. PZC–15-062

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS) TO ADD A DEFINITION FOR BREWERY; AMEND TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO REGULATE SIC 5813 – TAP ROOM/BEER PARLOR IN CONJUNCTION WITH A BREWERY AND TO REGULATE SIC 2082 BREWERY; AMEND TITLE 9 (ZONING), CHAPTER 10, PERFORMANCE STANDARDS TO REVISE REGULATIONS FOR TAP ROOM/BEER PARLOR; AND AMEND TITLE 9 (ZONING), CHAPTER 15, OFF STREET PARKING AND LOADING TO REGULATE PARKING REQUIREMENTS FOR TAP ROOM/BEER PARLOR

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, and Title 10, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions) to add a definition for brewery; amend Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning Districts), Section 6 (Commercial, Office and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) to regulate SIC 5813 – Tap Room/Beer Parlor in Conjunction with a Brewery and to regulate SIC 2082 Brewery; amend Title 9 (Zoning), Chapter 10, Performance Standards to revise regulations for tap room/beer parlor; and amend Title 9 (Zoning), Chapter 15, Off Street Parking and Loading to regulate parking requirements for tap room/beer parlor;

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;

WHEREAS, this Commission held a duly-noticed hearing to consider the application for an amendment to ordinance;

WHEREAS, this Commission did consider the application for an amendment to ordinance;

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-002790-2015) is recommended to the City Council for approval, as stated in the staff report or as amended in the attached Exhibit A.

PASSED AND ADOPTED on August 17, 2015.

Chris Costa, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

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 held on August 17, 2015, by the following vote:

AYES: Costa, Crowley, Hatfield, Southworth
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Andersen, Brown, Erickson

ATTEST:

Lynn Taylor
Recording Secretary

EXHIBIT II

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

ORDINANCE NO.

TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS) TO ADD A DEFINITION FOR BREWERY; AMEND TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO REGULATE SIC 5813 – TAP ROOM/BEER PARLOR IN CONJUNCTION WITH A BREWERY AND TO REGULATE SIC 2082 BREWERY; AMEND TITLE 9 (ZONING), CHAPTER 10, (PERFORMANCE STANDARDS) TO REVISE REGULATIONS FOR TAP ROOMS/BEER PARLORS; AND AMEND TITLE 9 (ZONING), CHAPTER 15, OFF STREET PARKING AND LOADING TO REGULATE PARKING REQUIREMENTS FOR TAP ROOM/BEER PARLOR

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 9: Zoning, Chapter 2: Zoning Rules and Definitions, is hereby amended to place in alphabetical order the following definitions:

> **BREWERY: A business that produces ales, beer, meads and/or similar beverages on site (SIC 2082 Manufacturing of Malt Beverages).**

Section 2. Amendment. Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning Districts), Section 6 (Commercial, Office and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) is hereby amended by adding the text in bold lettering:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
SIC 208 Beverages									Pc		Pc	P			
SIC 2082 Brewery less than 5,000 sq. ft. in conjunction with a tap room	**Pc**	**Pc**	**Pc**		**Pc**		**Pc**	**Pc**	**Pc**		**Pc**	**Pc**			
SIC 2082 Brewery less than 10,000 sq. ft. in conjunction with a tap room	**Pc**	**Pc**			**Pc**			**Pc**	**PC**		**Pc**	**Pc**			
SIC 2082 Brewery over 10,000 sf, with or without a tap room									**Pc**		**Pc**	**P**			
5813 Drinking Places	Pc	Pc	Pc		Pc		Pc	Pc							
SIC 5813 Tap Room/Beer Parlor in conjunction with a brewery of less than 5,000 sq. ft.	**Pc**	**Pc**	**Pc**		**Pc**		**Pc**	**Pc**	**Pc**		**Pc**	**Pc**			
SIC 5813 Tap Room/Beer parlor in conjunction with a brewery greater than 5,000 sq. ft. and less than 10,000 sq. ft.	**Pc**	**Pc**			**Pc**			**Pc**	**Pc**		**Pc**	**Pc**			
SIC 5813 Tap Room/Beer Parlor in conjunction with brewery **greater than 10,000 sq. ft.**									Pc		Pc	Pc			

Section 3. **Amendment.** Title 9 (Zoning), Chapter 10 (Performance Measures), Section 4 (Specific Use Regulations), Paragraph A is hereby amended by adding the text in bold lettering:

14. Tap Rooms or Beer Parlors: In those districts where a tap room/beer parlor is allowed, the tap room/beer parlor shall only be allowed by approval of a permitted conditional use permit to operate in conjunction with a brewery. The brewery must have a Native Beer Brewery (NAB or NAAB) permit issued through the State of Iowa and a Class B beer license approved by the City. The Class B beer license shall be restricted to serving only those beers brewed on-site, plus a maximum of five (5) additional microbrewery or craft beers that are brewed off-site.

No Class LC liquor permit will be allowed in conjunction with the tap room.

Parking space requirements for a brewery with tap room/beer parlor will be calculated at the parking rate for 5813 Drinking Establishments for that portion of the brewery identified as the tap room/beer parlor. This parking calculation shall be in addition to the parking requirement for SIC 20 Food and Kindred Products for that portion of the brewery identified for production purposes.

Section 4. **Amendment.** Title 9 (Zoning), Chapter 10 (Performance Measures), Section 4 (Specific Use Regulations), Paragraph J, subparagraph 8 is hereby deleted.

~~8. Tap Rooms or Beer Parlors shall only be allowed by approval of a permitted conditional use permit to operate in conjunction with a brewery. The brewery must have a Native Beer Brewery (NAB or NAAB) permit issued through the State of Iowa and a Class B beer license approved by the City of West Des Moines. The tap room shall occupy no more that 20 percent of the gross square footage of the brewery or be no greater than 3,000 sq. ft. whichever is more restrictive. The Class B beer license shall be restricted to serving only those beers brewed on-site, plus a maximum of five (5) additional micro-brewery beers that are brewed off-site. No class LC liquor permit will be allowed in conjunction with the tap room; having such license will classify the establishment as a bar.~~

Section 5. **Amendment.** Title 9 (Zoning), Chapter 10 (Performance Measures), Section 4 (Specific Use Regulations), Paragraph K, subparagraph 9 is hereby deleted.

~~9. Tap Rooms or Beer Parlors shall only be allowed by approval of a permitted conditional use permit to operate in conjunction with a brewery. The brewery must have a Native Beer Brewery (NAB or NAAB) permit issued through the State of Iowa and a Class B beer license approved by the City of West Des Moines. The tap room shall occupy no more than 20 percent of the gross square footage of the brewery or be no greater than 3,000 sq. ft. whichever is more restrictive. The Class B beer license shall be restricted to serving only those beers brewed on-site, plus a maximum of five (5) additional micro-brewery beers that are brewed off-site. No class LC liquor permit will be allowed in conjunction with the tap room; having this license will classify the establishment as a bar.~~

Section 6. **Amendment.** Title 9 (Zoning), Chapter 15 (Off Street Parking and Loading), Section 7-E is hereby **amended by adding the text in bold lettering and deleting the text in strikethrough lettering:**

58 Eating and drinking places	
5813 Drinking places	• 1.5 spaces per 100 square feet of GFA
5813 Tap Rooms/Beer parlor in conjunction with a brewery	• 1.5 spaces per 100 square feet of GFA **of the tap room/beer parlor** in addition to that parking required of SIC 208~~2~~: ~~Malt Beverages~~ **Food and Kindred Products**
20 Food and Kindred Products	• 3 spaces per 1,000 s. f. of G. F. A.
2082 Malt Beverages (breweries) in conjunction with tap room	• **3 spaces per 1,000 square feet of GFA of the brewery plus 1.5 spaces per 100 square feet of GFA of the tap room/beer parlor**

Section 7. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 8. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 9. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 10. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 11. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2015, and approved this _____ day of _____, 2015.

_____

Steven K. Gaer, Mayor

ATTEST:

_____

Ryan T Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2015, and was published in the Des Moines Register on _____, 2015.

_____

Ryan T. Jacobson
City Clerk