

Direction: CITY1485 .DSS

Chairperson Erickson called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, January 4, 2016, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Present
Costa.....Absent

Item 1 - Consent Agenda

Item 1a - Minutes of the meeting of December 21, 2015

Chairperson Erickson asked for any comments or modifications to the December 21, 2015 minutes.

Moved by Commissioner Crowley, seconded by Commissioner Southworth, the Plan and Zoning Commission approve the minutes of the December 21, 2015 meeting.

Vote: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Yes
Costa.....Absent

Motion carried.

Item 2 – Public Hearings

Item 2a – Short Term Rentals – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions), Section 2-2 (Definitions); Amend Title 9 (Zoning), Chapter 5 (Agricultural/Open Space And Residential Zoning District) Section 4 (Specific Use Regulations), and Section 8 (Open Space/Agricultural And Residential Use Regulations), Subsection C (Use Matrices); Amend Title 9 (Zoning), Chapter 6 (Commercial, Office, and Industrial Zoning Districts), Section 4 (Specific Use Regulations) and Section 6 (Commercial, Office, and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix Division I); Amend Title 9 (Zoning), Chapter 15 (Off-Street Parking and Loading), Section 7: Number of Parking Spaces Required, Subsection E; Amend Title 3 (Business And Licensing), Chapter 3 (Hotel And Motel Tax), Section 2 (Definitions); and Amend Title 8 (Building Regulations), Chapter 2, Article A (Building Codes) Section 29 (Rental Housing) to amend definitions and regulation pertaining to residential rentals – City Initiated – AO-002907-2015

Chairperson Erickson opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published in the Des Moines Register on November 27, 2015.

Chairperson Erickson asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Planner Brad Munford went over the history and high-lights of the City initiated proposed short-term rental amendment. He continued that there would be eight total changes affecting three different titles: the building code, zoning ordinance, and business rental codes. Mr. Munford provided background on the complaints received from neighbors regarding short-term rentals. These issues were ultimately addressed at a City Council workshop on June 15, 2015. At this meeting, City Council directed Staff to

draft a short-term rental ordinance. Mr. Munford continued that the legal staff made adjustments to the rental license code and created performance standards to restrict rentals to 31 days or less to be owner occupied: These amendments mirror that.

Mr. Munford summarized that the Code definitions and terms have evolved and have been updated to reflect the current times, i.e., boarding, lodging, rooming houses, and tourist cottages are now more commonly known as hotels, bed and breakfasts, camp grounds. Also, definitions have been added for long-term rentals and short-term rentals. The Use Matrix, as well as the performance and parking standards, have been updated to reflect the proposed changes.

Commission Southworth asked how the 31 days was chosen for occupancy. Planner Munford responded that this was consistent with Iowa Code in dealing with hotel rentals. Also, most rental leases are on a month-to-month basis.

Commissioner Brown inquired if these proposed changes were consistent with those in the cities of Clive and Urbandale. Mr. Munford responded that he thought Clive, Waukee, and Urbandale had similar restrictions, but that the City of West Des Moines was being more proactive. The City of Des Moines is in the process of addressing this issue.

Commissioner Southworth asked what the specific concerns were that came out of the City Council workshop. Mr. Munford stated that the neighbors were concerned about transient people coming in and out of their neighborhood. Extreme examples would be contractors and others parking on grass when coming and going, the rental becoming a "party house," and the impact on property values, as well as safety for younger family members. Staff and Council members also expressed concerns with how this could get out of control.

Commissioner Crowley provided an example of an incident when a horse trailer was parked on a lawn for two weeks during the state fair. He expressed support for the amendment and that without restrictions in place, there could be abuses.

Commissioner Southworth stated she loves the concept of air bed and breakfasts and wants them to continue. Mr. Munford stated it is a good service, but also a use that needs to have restrictions in place to protect the neighborhood and to ensure that the owner would be available to rectify any negative situation.

Commissioner Andersen asked if this meant you would be allowed to rent a room in your house but not the whole house. Mr. Munford responded that this was correct.

Chairperson Erickson asked for clarification regarding owner occupation. Mr. Munford explained that it has to be the permanent residence of the owner renting out the property. Technically, there needs to be co-habitation when the property is rented which would be hard to substantiate.

Chairperson Erickson asked how those providing this service were notified and, if not, how would they know if they were in violation. Mr. Munford stated that per state requirements, this has been published in the newspaper for a period of time. Also, information is disseminated when complaints are received or when there is rental license application.

Commission Brown inquired if the homeowner had to be licensed or registered with the City. Planner Munford responded that as part of the amendment, a rental license has to be obtained and state health inspections conducted.

Commissioner Hatfield inquired that if there was a rental problem, what mechanism was in place to enforce compliance. Planner Munford stated that Staff would follow normal code enforcement

protocol, as well as communicate restrictions with a warning which would allow for correction.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Moved by Commissioner Crowley, seconded by Commissioner Brown, the Plan and Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendment to amend definitions and regulations pertaining to short-term residential rentals.

Vote: Andersen, Brown, Crowley, Erickson.....Yes
Hatfield, Southworth.....No
Costa.....Absent

Motion carried.

Commissioners Hatfield and Southworth were not in support of this item indicating that requiring homeowner occupancy would be restrictive.

Chairperson Erickson commented that even though he voted yes, he also thought that requiring the owner to be on the premise would essentially make for a non-functional rental, and that there may be other ways to deal with the potential impacts.

Item 2b – Ordinance Amendment – Amend Title 9 (Zoning), Chapter 10 (Performance Standards) and Chapter 14 (Accessory Structures) to establish regulations pertaining to solar energy systems - City Initiated – AO-002916-2015 (Continue to February 1, 2016)

Chairperson Erickson asked for a motion and a second to defer Item 2b, an ordinance to establish regulations pertaining to solar energy systems, to the February 1, 2016 meeting to accommodate review by the Development and Planning City Council Subcommittee and, if needed, a City Council workshop.

Moved by Commissioner Hatfield, seconded by Commissioner Crowley, the Plan and Zoning Commission defer Item 2b to the February 1, 2016 Plan and Zoning Commission meeting.

Vote: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Yes
Costa.....Absent

Motion carried.

Item 2c – Minor Modification Ordinance Amendment – Amend Title 9, Zoning, Chapter 1, Entitlements, Processes & Procedures, Section 8-A-4 – City initiated – AO-002928-2015

Chairperson Erickson opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published in the Des Moines Register on December 25, 2015.

Chairperson Erickson asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Crowley, seconded by Commissioner Andersen, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Vote: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Yes
Costa.....Absent

Motion carried.

Planner Tragesser reviewed the proposed changes to the entitlement provisions for minor modifications. The ordinance amendment would include provisions to allow minor topographic/grading changes to be administratively reviewed and approved, to allow utility installation to be administratively reviewed and approved, and to add provisions for the potential requirement of storm water management plans and traffic impact studies.

Chairperson Erickson commented that approval would provide staff with additional tools to navigate through the Minor Modification process, as well as make it easier for developers to conduct business in West Des Moines.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Moved by Commissioner Brown, seconded by Commissioner Crowley, the Plan and Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendment.

Vote: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Yes
Costa.....Absent

Motion carried.

Item 3 – Old Business

There were no Old Business items on the agenda.

Item 4 – New Business

Item 4a – Newport Office Building - 1075 Jordan Creek Parkway – Approval of a Phased Site Plan to allow grading of the site and installation of private site infrastructure and building footings and foundations – R&R Realty Group – MaM-002943-2015

Commissioner Hatfield recused himself from participation due to a potential conflict of interest.

Tom Rupprecht, R&R Realty Group, 1225 Jordan Creek Parkway, West Des Moines, representing the applicant, requested phased site plan approval to initiate grading to allow for the installation of underground private utilities, and for the construction of building footings and foundations for the property located at 1075 Jordan Creek Parkway. Due to time constraints, approval would allow the applicant to begin construction before full site plan approval. Mr. Rupprecht thanked staff for helping expedite this request.

Mr. Rupprecht expressed agreement with all staff recommendations and conditions of approval.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, asked for continued discussion or a motion.

Moved by Commissioner Crowley, seconded by Commissioner Brown, the Plan and Zoning Commission adopt a resolution recommending the Plan and Zoning Commission adopt a resolution approving the phased site plan to allow grading and the installation of site infrastructure and building footings and foundation, subject to the applicant meeting all City Code requirements and the following:

1. The applicant acknowledges that the approval to allow the applicant to proceed with grading the site is at their own risk as the grading plan is subject to the risk of change stemming from the continued review of the Major Modification for the construction of the office building and development of the site;
2. The applicant install and maintain all necessary soil erosion measures;
3. The applicant agrees that any site infrastructure work and installation of building footings and foundations done to the site prior to the full approval of the site plan which contains all site development details is at their own risk, and that the final site development will need to comply with any changes that are deemed necessary as part of those subsequent approvals. The applicant further acknowledges and agrees that should the continued review, development and finalization of the site’s details warrant changes to the utilities or building design or locations resulting in changes to the grades, utilities or footings or foundation, that the applicant will need to make the necessary changes at their own cost with no compensation from the City;
4. The applicant acknowledges that approval of this site plan does not allow for any above ground construction of any type and that subsequent site plan approval and submittal of final plans to the City is required before any above ground work can be started; and,
5. The applicant agrees to obtain all appropriate building permits prior to initiation of any site work.

Vote: Andersen, Brown, Crowley, Erickson, Southworth.....Yes
 Hatfield.....Abstain
 Costa.....Absent

Motion carried.

Item 5 – Staff Reports

There were no staff reports.

Item 6 - Adjournment

Chairperson Erickson asked for a motion to adjourn the meeting.

Moved by Commissioner Crowley, seconded by Commissioner Andersen to adjourn the meeting.

Vote: Andersen, Brown, Crowley, Erickson, Hatfield, Southworth.....Yes
 Costa.....Absent

Motion carried.

The meeting adjourned at 5:58 p.m.

Craig Erickson, Chairperson

Kimberly Taylor, Recording Secretary