NO CHANGE FROM PREVIOUS READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: January 26, 2016

ITEM: Minor Modification Ordinance Amendment – Amend Title 9, Zoning, Chapter 1, Entitlements, Processes & Procedures, Section 8-A-4 - City Initiated
AO-002928-2015

ORDINANCE: Approval of Second Reading, Waive Third Reading, Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Staff is requesting an amendment to City Code, Title 9, Zoning, Chapter 1, Section 8-A-4, Minor Modifications, to clarify when the minor modification process may be used and change the general provisions related to storm water management plans and traffic impact studies.

Previous City Council Action:
Vote: 5-0 approval
Date: January 11, 2016
Motion: Approve the first reading of the amendment to the Title 9, Zoning Code, Chapter 1, Section 8-A-4.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, Staff recommends the City Council approve the second reading of the ordinance, waive the third reading of the ordinance and pass the ordinance in final form.

Lead Staff Member: Kara Tragesser, AICP

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register Community Section
Date(s) Published	December 25, 2015
Letter sent to surrounding property owners	N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	December 3, 2015		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:
Exhibit I - Ordinance

EXHIBIT I

Prepared by: K Tragesser, 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.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 9: ZONING, CHAPTER 1: ENTITLEMENTS – PROCESS AND PROCEDURES, SECTION 8 ENTITLEMENTS, SUBSECTION A-4 MINOR MODIFICATION TO ENTITLEMENTS

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

Section 1. Amendment. Title 9: Zoning, Chapter 1: Entitlements – Process and Procedures, Section 8, Entitlements, Subsection A-4 Minor Modification to Entitlements is hereby revised by deleting text in highlighted strikethrough lettering and adding italicized text in bold lettering:

4. Minor Modifications to Entitlements:

A. Purpose: Level ~~I~~ *1* and Level ~~II~~ *2* Minor Modifications are changes to an approved site plan are ***through*** a process that allows for a less formal review of projects that encompass minor changes that do not generate substantial impacts and do not warrant public input.

B. General Provisions:

(1) The Director of Development Services or designee may grant a Level ~~I~~ *1* or a Level ~~II~~ *2* Minor Modification to an approved site plan permit. The modification may govern only the following measurable design/site considerations, which in no case results in a reduction from any minimum standard outlined in this zoning ordinance or the previous directives of the City Council or Board of Adjustment.

(A). A Level ~~I~~ *1* Minor Modification may be allowed for the following:

1. Modifications to on-site circulation drives, parking, and loading or service areas that do not increase the net impervious surface area more than two thousand (2,000) square ***and that do not affect existing topography or drainage***;
2. Placement or changes to walls, fences, and retaining walls;
3. Modifications to landscaping that do not affect existing topography or drainage;
4. Modifications to wall facades, reconfiguration and/or addition of architectural features, colors, or finishes materials that do not compromise the established theme or otherwise makes the structure inconsistent with the architectural design, color, or materials of other structures within the same development or surrounding area;
5. Entry vestibules necessary to meet Energy Code requirements and which are no larger than necessary to accommodate accessibility standards;
6. Co-location of communication antenna on existing structures and related accessory buildings up to two thousand (2,000) square feet;
7. Installation of trash enclosures and associated screening;
8. Installation of back-up generators and associated screening; and
9. Additions of or expansions of decks and patios for permitted uses.

(B). A Level ~~II~~ *2* Minor Modification may be allowed for the following:

1. Modifications to on-site circulation drives, parking, and loading or service areas which increase the net impervious surface area more than two thousand (2,000) square feet;
2. New freestanding accessory buildings for ***permitted uses*** of not more than a total of two thousand (2,000) square feet;
3. ***New or expansions of patios or b***uilding expansions of an existing facility for permitted uses up to fifty percent (50%) of the existing square footage and not more than a total of two thousand (2,000) square feet;
4. ~~Modification of an approved Permitted Conditional Use Site Plan Permit that does not increase the square footage of the use (e.g.: building, deck or patio addition or expansion) and that does not otherwise meet the test for a Level I Minor Modification;~~ ***Installation of water, storm sewer, and sanitary utilities on the site. Installation of public utilities may be proposed through the Minor Modification Level 2 process, but will be subject to the approval and acceptance of the City Council.***
5. Changes in residential density to either decrease the total number of units or to increase the number of units as long as:
    a. The density does not exceed the maximum allowed per the designated zoning of the property; and
    b. The additional density does not warrant a structural addition or new structure which exceeds two thousand (2,000) square feet of gross floor area.
6. ***Changes to topography or drainage that do not affect the ground elevations of sidewalks or buildings.***

(2) Any Level ~~I~~ *1* Minor Modification request which exceeds the prescribed limitations outlined in this section shall instead file a Level ~~II~~ *2* Minor Modification request or a Major Modification Site Plan Permit request. A site may have an unlimited number of Level ~~I~~ *1* Minor Modifications.

(3) Any Level ~~II~~ *2* Minor Modification request which exceeds the prescribed limitations outlined in this section or a site which has been the subject of two (2) previous Level ~~II~~ *2* Minor Modifications shall instead file a Major Modification Site Plan Permit request.

(4) Any modification to a previously approved Permitted Conditional Use Site Plan approval that does not qualify for the Level ~~I~~ *1* or the Level ~~II~~ *2* Minor Modification process shall be subject to review by the Board of Adjustment. Any expansion of a Permitted Conditional Use of property shall require approval by the Board of Adjustment.

(5) Any Level ~~I~~ *1* or Level ~~II~~ *2* Minor Modification to a ***previously approved*** site plan or to a previously approved Permitted Conditional Use Site Plan that is for a site which has non-conforming attributes, e.g. setbacks, open space percentage, landscaping, parking, and which proposes to increase the scope of any non-conforming attribute shall not be granted approval, except in those cases where a variance is obtained from the Board of Adjustment.

(6) Any Level 1 or Level 2 Minor Modification to a previously approved site plan that increases the net impervious area by 2,000 square feet or more, or changes topography that affects drainage patterns within the site, or changes existing detention facilities within or serving the site, including changes to the capacity of a detention facility within or serving the site, or properties that are identified to contribute to known down-stream flooding issues will be required to study the effects of the proposal and provide either a revised Storm Water Management Plan or letter of general conformance to an approved Storm Water Management Plan signed by an Iowa licensed Engineer.

(7) Any Level 1 or Level 2 Minor Modification to a previously approved site plan that increases the square footage of the useable area of the building, e.g. expansion of the building or addition or expansion of a patio, or which modifies driveways or internal circulation to the extent that the change would affect traffic on the public street system will require a Traffic Impact Study.

(~~6~~ **8**) The Director of Development Services or designee shall have the discretion to refer any Level ~~I~~ *1* or Level ~~II~~ *2* Minor Modification request to the Plan and Zoning Commission and City Council for permitted uses or to the Board of Adjustment for Permitted Conditional Use Permits.

C. Application: The Level ~~I~~ *1* or Level ~~II~~ *2* Minor Modification ~~of a previously approved site plan permit~~ shall require the approval of the Director of Development Services or designee. The Director of Development Services or designee may establish conditions of approval to further the intent of this section or other City Code regulations. An application for a Level ~~I~~ *1* or a Level ~~II~~ *2* Minor Modification shall be on a form prescribed by the Director and shall be filed with the Development Services Department with such other detailed elevations, plans and other information as may be required to adequately evaluate the proposed development.

D. Required Permit Findings: Level ~~I~~ *1* and Level ~~II~~ *2* Minor Modifications shall only be granted if all of the following findings are made. It shall be the responsibility of the applicant to prove that the following findings can be made:

(1) That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan;
(2) That the proposed development or use does assure compatibility of property uses within the zone and general area;
(3) That all applicable standards and conditions have been imposed which protect the public health, safety and welfare;
(4) That there is adequate on site and off site public infrastructure to support the proposed development; and
(5) That the proposed development or use has met all the requirements contained in this Code.

Section 2. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 3. 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 4. 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 5. 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 6. 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 _____, 2016, and approved this _____ day of _____, 2016.

_____
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 _____, 2016, and was published in the Des Moines Register on _____, 2016.

_____
Ryan T. Jacobson
City Clerk