

**PLAN AND ZONING COMMISSION MEETING July 31, 2017**

Direction: CITY.DSS

Chairperson Erickson called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, July 31, 2017, 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 July 17, 2017**

Chairperson Erickson asked for any comments or modifications to the July 17, 2017 minutes.

Moved by Commissioner Hatfield, seconded by Commissioner Brown, the Plan and Zoning Commission approved the July 17, 2017 meeting minutes.

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

Motion carried.

**Item 2 – Public Hearings**

**2a – Single Family Residential Uses In Non-Single Family Residential Designated Areas – Title 9 (Zoning), Chapter 6 (Commercial, Office And Industrial Zoning District), Section 4 (Specific Use Regulations), Chapter 3 (General Zoning Provisions), Section 4 (Nonconforming Buildings, Structures, Uses Of Land, Or Uses Of Buildings Or Structures). To Amend Regulation Pertaining To Single Family Residential Uses in Non-Single Family Residential Designated Areas – City Initiated – AO-003453-2017**

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 July 21, 2017.

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 Brown, 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.

Brad Munford, Planner, explained the request to amend the City ordinance to allow, in certain situations, single family homes to be built in areas that are zoned or Comprehensive Planned for a different district.

Through annexation homesteads are annexed into the city, these are larger lot homesteads, and through the Comprehensive Plan or zoning process they are assigned a land use that is different than how the property is being used at that time. What this does through consistency zoning is create a legal non-conforming status

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and if a situation were to occur where the house was demolished that property owner would no longer be able to rebuild a house on the property.

Staff has had requests to take a look at these non-conforming situations and create a solution. The issue was discussed during the June 12, 2017 Development & Planning Subcommittee meeting where they directed staff to come up with an Ordinance.

Mr. Munford stated the proposed ordinance lays out criteria for situations where the City would allow a residential home to be built in a non-residential district. He briefly went over the criteria:

- a. The property owner is agreeing to execute an acknowledgement that they understand certain things; such as, the area around them will not have the same uses as them. So in the future if they approached the City stating they were not fond of a particular project Staff can say they were advised that different uses and building types could pop up around them.
- b. They acknowledge that we will not place buffer requirements on developments that are around them because, in this particular case, they are creating the need for the buffer.
- c. They are agreeing that they will not be participating in commercial activity. Staff did not want a situation where someone would build a house and then turn it into an office or build an out building to run a mechanic shop.

He noted other things that were taken into consideration, setbacks of 100 feet for the main structure and 50 feet for accessory buildings. This allows the City to get right of way or easements for sewer mains if needed in the future without running into issues with buildings.

Commissioner Southworth asked how the 15 year period of time was determined.

Mr. Munford explained Staff wanted to pick a reasonable time frame that wasn't too far out but allowed enough time to capture properties that may be in the situation because of the last few annexations.

Commissioner Southworth stated since the current ordinance says if a house is demolished the land can't be used for non-conforming use she did not understand the 15 years and wanted to know if there was a specific property that has been without a residence for 15 years.

Mr. Munford responded there was a particular property that has been without a residence for quite some time but not 15 years. The owners at 4030 SE Maffitt Lake Rd approached Staff and also attended a Development & Planning Subcommittee meeting regarding their 3 acre property. The property was at the point of disrepair and the City told them they had to demolish the building. The property is master planned for office which left them in this non-conforming situation where they are paying a mortgage on a house that does not exist. That was one of the points that grabbed the ear of the subcommittee members and they wanted to come up with a solution.

Commissioner Southworth referenced item 4 from the Staff Report and asked if adjacent properties must remain vacant.

Mr. Munford stated that was setup to prevent a spite situation where an area is developing as office or commercial and someone acquires a building permit for a house with no intention of building it. Staff did not want to create a situation that would prevent development that is already rolling.

Commissioner Southworth asked for further clarification of the criteria requiring they demonstrate that the parcel is the same size configuration as when the house existed.

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Mr. Munford clarified, Staff did not want ad hoc subdivisions to be created. If they had an original homestead that was there and Staff can go back and look at county records, platting and aerial photography to see that it was an actual homestead and now they want to build a house and live on the property the City would allow them to do that. Staff did not want a situation where over the years they have taken pieces out of the property creating their own subdivision and circumventing subdivision regulations as far as allowing the City to get right of way and easements.

Commissioner Brown asked if any of the surrounding cities have similar amendments.

Mr. Munford stated he did not believe so but Staff did not take a strong look at other communities for this Ordinance, noting this is not unusual to see around the nation.

Commissioner Southworth asked if the Maffitt Lake Rd property issue could be resolved through a variance from the existing code.

Mr. Munford stated that would be a use variance and under Iowa State Law the bulk area standards (setbacks, height, etc.) are looked at. In regards to a particular use the Board of Adjustment can't waive the zoning code and allow a use on a piece of property that wouldn't normally be allowed on that zoning.

Commissioner Southworth asked if there was any other mechanism besides an Ordinance Amendment.

Mr. Munford responded Planned Unit Developments (PUD) have been used in the past, noting legal Staff has expressed they are not fond of utilizing PUD's for that purpose. He stated it would not be a variance situation based on code.

Commissioner Southworth inquired if Staff felt there would be a lot of requests to use this.

Mr. Munford replied Staff did not expect a lot of requests. There may be a lot of people who may try it but they wouldn't be qualified based on the proposed criteria. He stated he would be shocked if Staff saw more than one a year.

Chairperson Erickson asked if there was further public comment, seeing none, closed the public hearing and asked for further discussion from the Commissioners.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission adopt a resolution recommending the City Council approve an Ordinance to Amend the City Code of the City of West Des Moines, Iowa 2014 by amending Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning district), Section 4 (Specific Use Regulations), Chapter 3 (General Zoning Provisions), Section 4 (Nonconforming Buildings, Structures, Use of Land, or Uses of Buildings or Structures). To amend regulation pertaining to Single Family residential uses in Non-Single Family residential designated areas.

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

Motion carried.

**Item 3 – Old Business**

There were no Old Business items to address.

**Item 4 – New Business**

There were three New Business items to address.

**4a – Fareway Plat 1, Southwest corner of S. 81st Street and Mills Civic Parkway – Subdivide property into 1 lot for commercial development – Fareway Stores, Inc. – PP-003464-2017**

Tim West, Snyder & Associates, Inc., 2727 SW Snyder Blvd, Ankeny, IA, represented Fareway Stores, Inc. and their request for establishing the Preliminary Plat for 4.34 acres located on the southwest corner of Mills Civic Pkwy and S. 81<sup>st</sup> Street. He pointed out that this is a part of the newly formed Etzel Plat 2 Planned Unit Development (PUD).

Mr. West showed access to the site off of 81<sup>st</sup> Street and another full access on Mills Civic Pkwy, noting the access points would be accommodated through an ingress/egress easement that would cut through some of the adjacent property west and south of the site.

He pointed out the location of the sanitary sewer which would be built to service the entire site and would run from the south to the north. Mr. West provided Fareway’s preliminary development plan to show storm sewer routing through the parking lot and being detained in the south-southwest corner and released into the area to the south which may be developed further in the future.

Chairperson Erickson stated the ingress/egress easement is kind of odd in that it is in a place where there is no developable land on the other side. He asked the applicant if they had a Master Plan where that would become part of a parking lot for a future user.

Mr. West stated that was correct, the PUD Master Plan shows the sketch plan that has development within that area. A lot of it was developed based on the access points that were already pre-determined along Mills Civic Pkwy. He added they will be looking at potential access directly into the site along Mills Civic Pkwy, with a right in/right out but that will be developed more at the Site Plan stage.

Brian Portz, Planner stated this is the Preliminary Plat review only and that the Site Plan will be reviewed within a few months.

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 Andersen, the Plan and Zoning Commission adopt a resolution recommending the City Council approve a Preliminary Plat to subdivide property into 1 lot for commercial development subject to the applicant meeting all City Code requirements with the following conditions of approval:

1. An ingress/egress easement for access to the site from the property to the west shall be submitted and recorded at the time of associated final plat approval.
2. The site plan shown on the preliminary plat is not approved with the preliminary plat. City Council approval of the associated Fareway site plan shall occur prior to any construction (private utilities, parking lots, or building construction) occurring on the site.
3. The applicant receiving City Council approval of the associated Final Plat prior to issuance of any building permit, including footing and foundation permits for the lot.

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- 4. Public improvements on the site shall be accepted by the City or surety provided for their completion prior to the approval and release for recordation of the associated Final Plat.

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

**4b – 3900 Westown Teller Canopy Removal, 3900 Westown Parkway – Approval of demolition of an existing bank canopy – Jerry’s Homes, Inc. – MML1-003450-2017**

Jay Cowan, Director of Land Development & Director of Operations, Jerry’s Homes Inc., 10430 New York Ave. Suite C, Urbandale, Iowa, explained the request to occupy 11,000 sq. ft. of an existing office building located at 3900 Westown Pkwy. They have a tenant who will occupy the other 3,000 sq. ft. and a potential 3<sup>rd</sup> tenant occupying 1,000 sq. ft.

Mr. Cowan stated the property was a bank that had a drive-thru area with a canopy and they would like to demolish the canopy. They intend to make other site improvements which include, taking out the existing paving and changing the grade to make sure everything slopes. He noted they will maintain the detention basin and storm water capacity.

He explained the parking deferment issue, when the building was built it required a certain amount of parking spaces per square foot, however since that time parking requirements per square foot have increased. Currently the property has 60 parking spaces and at full capacity they would have approximately 29 people working in the building. Mr. Cowan felt the 60 parking spaces would be adequate and pointed out that they do have a plan, as required by Staff, showing a future parking lot in the front of the building.

Commissioner Crowley inquired as to the square footage of the building.

Mr. West responded that the building is approximately 15,000 sq. ft.

Commissioner Crowley stated they currently have 4 parking spaces per thousand sq. ft. and asked Staff what Code would require.

Brad Munford, Planner, responded the requirement is 5 parking spaces per thousand sq. ft.

Commissioner Hatfield asked how long they have occupied the building.

Mr. West stated they are currently remodeling and plan on fully occupying by October 1, 2017.

Commissioner Hatfield pointed out that the building to the east has a higher parking requirement and will overflow into there lot and wanted to know if they had a plan to mitigate the neighbors use of the property.

Mr. West stated there is currently a sign posted that says no parking and they intend to be good neighbors and plan on having a discussion with them before they move in.

Brad Munford, Planner, explained the Minor Modification Level 1 would normally be approved at the Staff level but was brought before the Commission because the applicant requested deferral of 20 parking spaces.

Mr. Munford provided background on the property, it was annexed into the city in 1957, the building was built in 1985 and in 1996 the current parking standard was implemented. Because they are getting rid of the canopy that caused them to come into non-conforming status. He expressed staff’s support of their

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request based on how the property will be used and they have shown where they can add the additional parking spaces if needed.

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

Chairperson Erickson stated good work coming up with an equitable solution by staff and applicant we don't need parking that won't be used and creating more runoff.

Moved by Commissioner Brown, seconded by Commissioner Crowley, the Plan and Zoning Commission adopt a resolution recommending the City Council approve a Minor Modification to allow the demolition of an existing bank canopy at 3900 Westown Parkway, subject to the applicant meeting all City Code requirements with the following conditions of approval:

1. The applicant install and maintain all necessary soil erosion measures.
2. The applicant agrees to obtain all appropriate building permits prior to initiation of any site work
3. The City Council deferring the installation of up to 20 parking stalls of the 79 required by Code until such time that parking on non-designated parking areas or parking off-site occurs due to the lack of available parking stalls. At that time, the City reserves the right to provide the applicant notice to increase the number of parking stalls. The applicant will be required to provide the additional parking spaces in accordance with City regulations within the first available construction season. Should the implementation of additional parking be needed, the applicant shall construct them in compliance with the plans submitted with this Site Plan that identifies the location and engineering details for the stalls to be constructed.

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

**4c – Continental Plaza Plat 2, 7300 Westown Pkwy – Plat property into 2 commercial lots, 1 street lot, 1 outlot for detention and 1 outlot for future development – Penta Partners, LLC. – PP-003494-2017**

Erin Ollendike, Civil Design Advantage, 3405 SE Crossroads Drive Suite G, Grimes, IA summarized the request for approval of a Preliminary Plat to subdivide the property located on the southeast corner of Westown Pkwy and Jordan Creek Pkwy. This property has an existing building that was built in 1979 and has been used for office. The developer is intending to keep that building as office and would like to subdivide the property so the southern half can be developed under the current zoning uses. Ms. Ollendike showed the placement of the lots and outlots, utilities, and access points.

Brad Munford, Planner added that this is the Briggs building. He pointed out the plat itself and the lot that is being created for the Briggs building meets all of our bulk area standards and recommended approval with the stipulation that they go through the Final Plat before they start construction. When they start construction they must work with the City's emergency management groups and make sure that they provide service for emergency situations.

Commissioner Brown asked if the applicant was in agreement with staff conditions of approval.

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Ms. Ollendike stated they were in agreement.

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 Brown, seconded by Commissioner Southworth, the Plan and Zoning Commission adopt a resolution recommending the City Council approve Continental Plaza Plat 2 Preliminary Plat to subdivide the property into 2 commercial lots, 1 street lot, 1 outlot for detention and 1 outlot for future development subject to the applicant meeting all City Code requirements with the following conditions of approval:

1. Applicant acknowledging that the associated Final Plat must be approved by the City and recorded with the County prior to the issuance of any building permits, including footing and foundation permits for any lot within the plat.
2. Applicant providing suitable access roads to the satisfaction of the City’s Fire Marshal prior to issuance of any building permits for above ground construction.

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

Motion carried.

**Item 5 – Staff Reports**

There were no staff reports.

**Item 6 - Adjournment**

Chairperson Erickson adjourned the meeting at 5:59 p.m.

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Craig Erickson, Chairperson

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Juanita Greer, Recording Secretary