

PLAN AND ZONING COMMISSION MEETING November 20, 2017

Direction: 1884DSS

Chairperson Erickson called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, November 20, 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 November 6, 2017

Chairperson Erickson asked for any comments or modifications to the November 6, 2017 minutes.

Moved by Commissioner Crowley, seconded by Commissioner Southworth the Plan and Zoning Commission approved the November 6, 2017 meeting minutes.

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

Motion carried.

Item 2 – Public Hearings *(there were none)*

Item 3 – Old Business

There was one Old Business item to address.

Item 3b –Ordinance Amendment - Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions) to add a definition for distilleries and tasting rooms, Amend Title 9 (Zoning) Chapter 6 (Commercial, Office and Industrial Zoning District), Section 6 (Commercial, Office and Industrial Use Regulations) Subsection 6 Table 1 Use Matrix, to add SIC 2085 – Distillery, Amend Title 9 (Zoning), Chapter 10 (Performance Standards) to add regulations for distilleries with a tasting room, and Amend Title 9 (Zoning), Chapter 15 (Off Street Parking and Loading) to regulate parking requirements for distilleries with a tasting room – City Initiated – AO-003660-2017 (deferred from November 6, 2017)

Chairperson Erickson invited Staff to present this item.

Development Services Planner Brian Portz stated that the Commission deferred action on this item to get additional input from the Fire Marshal about fire code regulations for distilleries. He noted that the Fire Marshal was present to answer any questions, adding that the Fire Marshal had indicated in staff discussions that he was supportive of the ordinance amendment as presented. Staff is still recommending approval as presented as the proposed size restriction of 5,000sf for a distillery with tasting room in Neighborhood Commercial areas, the Permitted Conditional use review process, and because of Fire and Building Codes that would be required would provide sufficient safeguards. If the Commission decided to further limit distilleries with tasting rooms, staff provided additional options for the Commission to consider, including restricting grain milling to industrial areas only.

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Commissioner Crowley inserted a question about whether the still should be restricted, limiting size, pressure, heat, volume or equipment, as his research had indicated this was also a part of the process that could be explosive.

Linda Schemmel, Development Coordinator, and Mr. Portz agreed that the Fire Marshal would address those specifics. Ms. Schemmel added that by limiting the operation size, there is already a restriction just because of the capacity of the equipment is limited by square footage.

Mr. Portz continued that the Commission could remove distilleries with a tasting room from Neighborhood Commercial in the proposed Ordinance; or a third option would be to put a restriction on distance of a distillery from a residential area.

Commissioner Southworth questioned whether these options were already written into the ordinance. Chairperson Erickson clarified that the Commission could add the amendments now, if they chose to. He then invited the Fire Marshal to speak.

Mike Whitsell, Fire Marshal for the West Des Moines Fire Department, asked the Commission for questions. Commissioner Crowley questioned whether an owner adding a still with a heat element would create an explosive hazard.

Mr. Whitsell responded that there are opportunities for explosion within any occupancy in the city, due to the presence of natural gas. Some applications are more hazardous than others, but in those areas, the Fire Code, Building Code and local codes are more restrictive regarding what is inside. As Fire Marshal, he considers the greatest risk to be where anyone is going to assemble inside of a building. There are strict codes when it comes to fire sprinklering, to fire alarming, and they look at those types of occupancies, which this falls into. Fire Inspection is seeking to control the potential hazards. As Fire Marshal, he can't state there will never be a fire in this type of facility, as there could be a fire in any type of facility. Instead Fire looks at how to control and limit the potential. For example, at the Distillery on 11th Street, all of the milling is done off-site and brought in. With onsite milling, the codes become stricter and include anti-explosion electrical, electrical components used for construction, dust and particle removal. Annual inspections are required. Each component used in the distillation process is clearly listed for what that use is, according to industry standards. These give specifics on containment, related to volume of product onsite, and if there is any spillage, it goes into a listed device for containment. There are sprinklering and fire alarms required in these applications. All development proposals through the plan review process, and are followed up with annual inspections. Fire Inspection believes with the building and fire codes, including 70 local amendments, they have what is needed to control the situation if something does happen, but hopefully it can be prevented.

Codes are updated every three years. Distilleries in the city are a new application. Fire Inspection tries to examine these changes in advance of the code change. This is a metro wide issue being addressed. Participating in Capital Crossroads, West Des Moines has moved forward with 19 communities in adopting a unified Fire and Building Code in the past year. As Fire Inspection starts working on the 2018 code cycle, there will be additional amendments, very likely regulating distilleries.

Fire Marshal Whitsell noted that West Des Moines currently has a brewery and restaurant within city limits that does the crushing of the grain onsite. That operation is safe, it's looked at, it's inspected, and it's protected.

Chairperson Erickson asked if the Commission had any other questions for Mr. Whitsell, and hearing none, asked if anyone from the audience would care to speak.

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Jeremy Christiani – 1100 50th Street - stated that he believes the existing city code does not meet the recommended industry standards or minimum requirements consistent with nationally recognized good practices for providing a reasonable level of life-safety and property protection from the hazards of fire, explosion, or dangerous conditions in micro-distilleries. Because appropriate regulations are not in place, the Fire Marshal and Plans Examiner cannot ensure that locating a distillery in neighborhood commercial zoning is appropriate. Artisan micro-distilleries realistically need exemptions from existing codes, and new regulations to safeguard people and property from the exemptions. New legislation does not give a mandate to locate manufacturers of alcoholic beverages in commercial zoning. Appropriate locations and safety regulations remain the responsibility of local government. Please do not allow unsafe micro-distilleries to become established in neighborhood commercial zoning before appropriate regulations are in place, such as requiring either a failsafe design, or periodic inspection, prohibiting the direct firing of stills, prohibiting the distillation column packing on stills, allowing and limiting still internal pressures up to less than 2.5 pounds, allowing and unregulating unlisted stills, as the vast majority of stills are not listed with Underwriters Laboratory, or ASME certified, and are pressure vessels. In the regulation of wooden casks, with maximum allowable quantities of storage of ethanol.

Chairperson Erickson asked if the Commission had any questions for Mr. Christiani, and they had none. He then asked if anyone else from the audience would like to address the item, and hearing none, asked the Commission for continued discussion or a motion.

Commissioner Hatfield asked about the existing distillery operating in the city, whether it was located in an area zoned neighborhood commercial. Ms. Schemmel responded that Rock Bottom was located in a PUD, likely with an underlying PCP zoning.

Commissioner Crowley stated that he would motion for approval, with an amendment to take neighborhood commercial out of the mix for distilleries.

Chairperson Erickson stated that he appreciated staff efforts; and what the fire marshal brought for information. He then commented that we allow things in a neighborhood commercial district to allow people to get a hamburger or dry cleaning without having to drive very far; to enhance their quality of life in West Des Moines, and that by applying that standard, he didn't feel that it was necessary to have a distillery in every neighborhood. He agreed with the motion as presented.

Commissioner Hatfield then seconded that motion to adopt a resolution recommending the City Council approve the ordinance amendment as amended. Motion carried.

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

Item 4 – New Business

There were three New Business items to address.

4a - Schroder Industrial Park Plat 3, 1120 Railroad Avenue – Subdivide the property into two lots for ownership transfer – Schroder Construction Services Inc. – PP-003672-2017

Chairperson Erickson invited the applicant to present their proposal.

Rick Baumhover, Bishop Engineering, 3501 104th Street, Urbandale, stated he was representing Al Schroder, Schroder Industrial Services. He noted that this is a two lot plat, and rather a brief project. There was nothing new to build or utilities to bring in. The owner was simply splitting off a tract of land

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containing a building under lease, to allow leaseholders to purchase the property. They have added a new ingress/egress easement across the remaining lot to provide access to 11th Street and 13th Street.

Chairperson Erickson asked Staff for comments. Linda Schemmel, Development Coordinator stated that she had nothing to add but asked if the Commission had any questions on the plat. There were none.

Chairperson Erickson asked if anyone from the audience cared to speak to the item. Hearing none, he asked the Commission for continued discussion or a motion.

It was moved by Commissioner Southworth, and seconded by Commissioner Brown, to adopt a resolution recommending the City Council approve the preliminary plat. Motion carried.

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

4b - 36th Street and Westown Place Parking, Southeast Corner of 36th Street and Westown Place – Approval of Off-Site Parking – Knapp Properties – MML1-003658-2017

Chairperson Erickson invited the applicant to present their proposal.

Jerry Oliver, Civil Engineering Consultants, 2400 86th Street, Des Moines, present with Stuart Ruddy, Knapp Properties, property owner. He noted that this is an existing parking lot which has been in existence from the 70s. It's had various uses. It is located immediately to the south of Goodwill and behind Men's Wearhouse. Mediacom is across the street, to the West. Knapp Properties would like to revive the parking lot; adding landscape, sidewalk, resurfacing, and adding islands for the purpose of the exclusive use of Mediacom. This would include sidewalk access. Landscaping would surround the lot, with gates at three entrances for exclusive use of Mediacom. This is a minor modification which went before the Council committee, which was in favor. He asked if the Commission had any questions.

Commissioner Hatfield asked if the applicant agreed with all staff comments. Mr. Oliver affirmed that they do.

Chairperson Erickson questioned the use of access gates, commenting that the rest of the contacts around here don't use this. He asked what was special about the area that made them believe people would try to use it other than Mediacom. Mr. Oliver responded that there are barrels and cones present now; but people use the lot to show cars for sale, parking cars from the hotel, parking from Goodwill. A vehicle might be there for a few hours, or for days. Knapp Properties has had to have cars towed away. They believe it's impossible to keep people out of there. Mediacom currently has a parking need. This is handy for them, it's a good rejuvenation for this parking lot which is in disarray. Chairperson Erickson agreed.

Commissioner Hatfield asked what kind of access for Mediacom utilize to get into the lot. Stuart Ruddy, General Counsel, Knapp Properties, 5000 Westown Parkway, West Des Moines, stated that Mediacom has indicated they will use card entry; and will incorporate a Knox-Box Rapid Entry System for fire and safety to access, in agreement with that recommendation from staff.

Chairperson Erickson asked Staff for comments. Ms. Schemmel noted that normally the Plan & Zoning Commission does not review minor modifications but was seeing this because the application required a waiver from code requirements, it is required to go to Council. City Code states parking for a use is required to be on-site or directly adjacent. In this situation, Mediacom would have to cross the street and

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would normally be required to provide an overcrossing or undercrossing as a connection to the primary site. Council will need to waive that requirement as part of this process.

As no one from the audience was present to address the item, Chairperson Erickson asked for continued discussion or a motion. Commissioner Hatfield motioned for approval, Commissioner Brown seconded the motion to adopt a resolution recommending the City Council approve the off-site parking and the motion passed. Commissioner Crowley commented that this would be a good improvement for the area.

Conditions of Approval

1. That the City Council waive the requirement for an over or under pass.
2. That Knox boxes be placed at entrance gates for emergency operation.
3. That no fleet or service vehicles be staged in the parking lot.
4. No product or materials be stored in the parking lot
5. The parking is to be used for employee vehicle parking only

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

4c - Vista Retail Center, 650 S. 50th Street – Approval of Grading Plan – Mian Inc. – SP-003631-2017

Chairperson Erickson invited the applicant to present their proposal.

Chuck Bishop, Bishop Engineering, 3501 104th Street, Urbandale, stated he was representing the owner, KL Mian. He stated that this is a proposed shopping center on the northwest corner of 50th Street and Bentley, across from Wells Fargo. It's a 17,000sf retail center, the main tenant will be IHOP. They are looking to do groundbreaking; and he was present to get grading started before winter. He added that he hopes to be back for full site plan approval at the next meeting; the building plans in are review right now. He then noted the location of a detention pond along 50th Street, with a water tower to the north, and the rest of the vacant ground to the northwest is owned by Hy-Vee.

Chairperson Erickson asked if the property abuts the water tower. Mr. Bishop affirmed that it does.

Chairperson Erickson asked about phase 2 on the drawing, indicating that there will be a drive around the north side at some point.

Mr. Bishop stated this was correct, it will go back to another trash enclosure, for the north half of the building. Phase 1 will be to build the south half of the building first, and put all the foundations in, but not complete walls on the north half until a later date.

Chairperson Erickson asked Staff for comments. Ms. Schemmel stated she had nothing to add, and asked if the Commission had any questions. There were none.

Chairperson Erickson asked if anyone from the audience would like to address the topic. Hearing none, he asked the Commission for a motion or continued discussion.

Commissioner Hatfield moved to pass the resolution approving the grading plan, subject to staff recommendation; Commissioner Southworth seconded the motion; motion carried.

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Conditions of Approval

1. Providing the City a copy of the NPDES Permit for this site, prior to commencing grading.
2. Finalizing the storm water management plan prior to commencing grading.
3. The applicant implementing and maintaining all necessary soil erosion measures.
4. The applicant acknowledging and agreeing that this approval is for grading only.
5. The applicant agreeing that any grading work done prior to approval of the full site plan is at their own risk, and that final grades and utilities will need to comply with any changes that are deemed necessary as part of that approval.

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

Item 5 – Staff Reports – (there were none)

Item 6 - Adjournment

Chairperson Erickson then adjourned the meeting at 5:54 p.m.



Craig Erickson, Chairperson



Jennifer Canaday, Recording Secretary