CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: December 27, 2017

ITEM: Amendment to City Code, Title 9 – Amend Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District), Section 6 (Commercial, Office and Industrial Use Regulations) to regulate variety stores in the Neighborhood Commercial District – Wellington Square, LLC – AO-003695-2017

ORDINANCE: Approval of First Reading of the Ordinance

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The applicant, Wellington Square, LLC, is requesting an amendment to City Code, Title 9, *Zoning*, Chapter 6, *Commercial, Office, and Industrial Use Regulations*, Section 6, *Commercial, Office and Industrial Use Regulations*, to allow SIC 533 Variety Stores as a permitted use in the Neighborhood Commercial (NC) zoning district. The City received a Pre-Application to use the former ACE Hardware building at 245 50th Street for a Dollar Tree store. The applicant is proposing an approximately 9,000 sq. ft. store at the former ACE Hardware site. They are proposing to divide the building into two units. The zoning of the property is Neighborhood Commercial and current code does not allow variety stores in Neighborhood Commercial. Current code does allow such stores in the Regional and Community Commercial zoning districts. Staff concerns are with the size of the store (not comfortable with a large building in the NC district). Staff recognizes that smaller traditional variety stores could be beneficial to the neighborhoods surrounding the NC districts.

Plan and Zoning Commission Action:
Vote: 6-0 Approval, with Commissioner Brown Absent
Date: December 18, 2017
Motion: Approve a resolution recommending the City Council approve the first reading of the amendment to Title 9, Zoning

Plan and Zoning Commission Discussion: A resident spoke in opposition to the request to allow variety stores in Neighborhood Commercial districts citing the unsightliness of outdoor display/storage by such a store and the extra traffic that this type of use may cause. The resident requested that the Plan & Zoning Commission not approve this request to allow variety stores in Neighborhood Commercial to preserve the integrity of the Neighborhood Commercial areas and the residences around them. Staff noted that performance standards for outdoor storage and display in Neighborhood Commercial districts were put in place with the recent ordinance amendment related to allowing hardware stores in Neighborhood Commercial Zoning.

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):

- Applicant's Request
- History
- City Council Subcommittee - *Development & Planning: December 11, 2017 **Note, subcommittee members were split in whether to allow.*
- Staff Review and Comment
  - *Building Size*
- Noticing Information
- Staff Recommendation and Conditions of Approval

RECOMMENDATION: Based upon the preceding review the Plan and Zoning Commission recommends the City Council approve the first reading to amend City Code to regulate variety stores in the Neighborhood Commercial zoning district, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Brian Portz, AICP BP

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	JBW
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	December 11, 2017	
Letter sent to surrounding property owners		N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	December 11, 2017		
Recommendation	Yes ☐	No ☐	Split X

ATTACHMENTS:

Exhibit I - Plan and Zoning Commission Communication

Attachment A - Plan & Zoning Commission Resolution

Attachment B - Proposed Ordinance (*moved to Exhibit II*)

Exhibit II - Ordinance

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION

Meeting Date: December 18, 2017

Item: Amendment to City Code, Title 9 – Amend Title 9, Chapter 6, Section 6-3 to regulated variety stores in the Neighborhood Commercial District – Wellington Square, LLC (AO-003695-2017)

Request Action: Approval of an amendment to the City Code

Case Advisor: Brian Portz, AICP BP

Applicant's Request: The applicant, Wellington Square, LLC, is requesting an amendment to City Code, Title 9, *Zoning*, Chapter 6, *Commercial, Office, and Industrial Use Regulations* to allow SIC 533 Variety Stores as a permitted use in the Neighborhood Commercial (NC) zoning district. The City received a Pre-Application to use the former ACE Hardware building at 245 50th Street for a Dollar Tree store. The applicant is proposing an approximately 9,000 sq. ft. store at the former ACE Hardware site. They are proposing to divide the building into two units. The zoning of the property is Neighborhood Commercial and current code does not allow variety stores in Neighborhood Commercial. Staff concerns were with the size of the store (not comfortable with a large building in the NC district). Staff recognizes that smaller traditional variety stores could be beneficial to the neighborhoods surrounding the NC districts. Through discussions with staff, the applicant is requesting to amend city code to accommodate the proposed use on the property and therefore within all Neighborhood Commercial Districts.

History: In June of 2017, the City Council approved an ordinance amendment allowing Hardware stores 15,000 square feet or less as a Permitted Conditional Use in Neighborhood Commercial Districts. This amendment also included an amendment to the Neighborhood Commercial District section of Chapter 10, Performance Standards, specifically restricting the size of outdoor display of merchandise and the size and location of outdoor storage areas. These performance standards apply to all allowed uses within the Neighborhood Commercial District.

City Council Subcommittee: This item was discussed at the December 11, 2017, Development and Planning City Council Subcommittee meeting. Council Member Mickelson indicated support of the request as he felt the smaller variety stores do provide a valuable option to surrounding residential, while Council Member Sandager was not in support of the requested amendment as he believes these type of stores should be located within the larger commercial zoning districts.

Staff Review and Comment: There are no outstanding issues. Staff would note the following

- *Building Size:* The applicant is proposing an approximately 9,000 sq. ft. store at the former ACE Hardware site. To address the size of a variety store, Staff researched the size of existing Dollar Tree stores in West Des Moines. The stores ranged from 8,120 sq. ft. to 13,735 sq. ft., with the newest stand-alone store at 1st and Grand being 9,400 sq. ft. in size. Staff felt that a variety store of 10,000 sq. ft. would accommodate various brands of variety stores in a NC district. Staff proposes that variety stores under SIC 533 equal to or less than 10,000 sq. ft. be a permitted use in the NC zoning district.

Noticing Information: On December 11, 2017, notice of the December 18, 2017, Plan and Zoning Commission and December 27, 2017, 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

ATTACHMENT A

RESOLUTION NO. PZC 17-114

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 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO ALLOW SIC 533 VARIETY STORES IN NEIGHBORHOOD COMMERCIAL DISTRICTS

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to 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 allow SIC 533 Variety Stores of limited size in the Neighborhood Commercial District;

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-003695-2017) 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 December 18, 2017.

Craig Erickson, Chairperson
Plan and Zoning Commission

ATTEST:

Jennifer Canaday
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 December 18, 2017, by the following vote:

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

ATTEST:

Jennifer Canaday
Recording Secretary

S:___Development Projects\Ordinance Amendments\Variety Stores\Variety Stores in NC Zones\AO-003695-2017_SR_Variety Stores in NC Zones_PZ.docx

EXHIBIT II

Prepared by: B. Portz, 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, TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE, AND INDUSTRIAL ZONING DISTRICT) TO ALLOW VARIETY STORES IN THE NEIGHBORHOOD COMMERCIAL ZONING DISTRICT

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

Section 1. Amendment. Title 9: Zoning, Chapter 6: Commercial, Office and Industrial District, Section 6, Commercial, Office, and Industrial Use Regulations, Subsection C. Table 6.1 is hereby amended by adding text in bold, italicized lettering.

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
533 Variety Stores	P	P					P	P							
533 Variety Stores 10,000 sq. ft. or less	***P***	***P***	***P***				***P***	***P***							

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 _____, 2018, and approved this ___ day of _____, 2018.

_____
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 _____, 2018, and was published in the Des Moines Register on _____, 2018.

_____
Ryan T. Jacobson
City Clerk