NO CHANGES FROM FIRST READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: November 2, 2020

ITEM: Amendment to City Code –Title 9, Zoning, Chapter 7, Setback and Bulk Density Regulations, to modify when the Average Front Yard Setback requirement is applied – City Initiated (AO-004874-2020)

ORDINANCE: Approval of Second Reading, Waive Third and Adopt Ordinance

FINANCIAL IMPACT: Undetermined.

BACKGROUND: City Staff requests an amendment to City Code, Title 9, "*Zoning*", Chapter 7 "*Setback and Bulk Density Regulations*", Section 4, "*Setback and Density Regulations*", Table 7.2, "*Setbacks - Standard Lots*", Note #1 and Table 7.5, "*Detached Accessory Structures*", Note #1 to modify when the application of average front yard setback provision is applied.

Current City Code states the following for this note:

> *In any existing platted property where the average front yard setback is different than that required for the specific zoning district, the front yard setback for the subject lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street including the existing dwelling of the subject property. Resulting front yard setback shall not be less than the minimum required side yard setback for the zoning district. Front yard setback measured from the face of any garage accessed from the street will be a minimum of 25 feet regardless of the averaged front yard depth. If the overall depth of the lot from the subject front yard is 50 feet or less, the setback for any garage accessed from the street will be a minimum of 20 feet.*

The provision applies in developed residential areas when primary (i.e. dwelling) or detached accessory structures have been located at a different setback than is required by City Code and a new structure or expansion to a structure is proposed to be constructed. The provision averages the setback of existing structures on the subject lot proposing the improvement and structures on the lot on each side of the subject lot to determine a new allowable front setback line. It is assumed that the intent of the provision was to respect the current setback context of structures along the street front and prevent the construction of a structure in front of another thus blocking neighboring properties views of the street.

There currently is no provision to factor in situational characteristics of the site in applying the requirement. The provision is applied regardless of zoning district, lot width or distance to structures on the adjoining properties. Staff feels that both lot width and the separation distance between structures greatly impacts whether there is a perceived change in the context of the street front, as well as impact on a neighboring dwelling. Staff is recommending that language be added to code to exclude application of the average front yard provision when structures on adjacent lots are 75' or greater from a proposed improvement. Attachment 'A' illustrates how this distance will be measured and clarifies when this amendment would apply and would not apply.

Previous City Council Action:
Vote: 5-0 approval
Date: October 19, 2020
Motion: Approval of First Reading of the proposed amendment(s) to City Code.

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, waive the third and adopt in final form the amendment to City Code Title 9, "*Zoning*", Chapter 7, "*Setback and Bulk Density Regulations*", Section 4, "*Setback and Density Regulations*", Tables 7.2 and Table 7.5 Note #1 to not require application of the average front yard provision when structures on adjacent lots are 75' or greater from a structure looking to make an improvement.

Lead Staff Member: Lynne Twedt

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	*JDS*
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	October 3, 2020
Letter sent to surrounding property owners	n/a

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	August 17, 2020		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Proposed Ordinance

EXHIBIT I

Prepared by: L. Twedt, 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, 2019, BY AMENDING TITLE 9, "ZONING", CHAPTER 7, "SETBACK AND BULK DENSITY REGULATIONS", SECTION 4, "SETBACK AND DENSITY REGULATIONS", TABLES 7.2 AND TABLE 7.5 NOTE #1 TO MODIFY WHEN THE AVERAGE FRONT YARD SETBACK REQUIREMENT IS APPLIED

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

SECTION 1: AMENDMENT. Title 9, "*Zoning*", Chapter 7, "*Setback and Bulk Density Regulations*", Section 4, "*Setback and Density Regulations*", Table 7.2, "*Setbacks - Standard Lots*", Note #1 and Table 7.5, "*Detached Accessory Structures*", Note #1 is hereby amended by adding the text in Bold Italic letters

Notes:

1. In any existing platted property where the average front yard setback is different than that required for the specific zoning district, the front yard setback for the subject lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street including the existing dwelling of the subject property. Resulting front yard setback shall not be less than the minimum required side yard setback for the zoning district. Front yard setback measured from the face of any garage accessed from the street will be a minimum of 25 feet regardless of the averaged front yard depth. If the overall depth of the lot from the subject front yard is 50 feet or less, the setback for any garage accessed from the street will be a minimum of 20 feet. ***The average front yard setback requirement shall not be applicable in situations in which the greatest extent of an improvement made on the subject lot is seventy-five feet (75') or greater from the closest element of a structure on both of the lots on either side of the subject lot.***

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 the 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 Title 1, Chapter 4, Section 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 after its passage, approval and publication as provided by law.

Passed and approved by the City Council on the 2nd day of November 2020.

_____
Steve Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2020.

_____
Ryan Jacobson, City Clerk