# CITY OF WEST DES MOINES
# STAFF REPORT COMMUNICATION

**Meeting Date:** October 17, 2022

**ITEM:** Comprehensive Plan Amendment – Approve Update to the Comprehensive Plan and Land Use Map – City Initiated - CPA-005581-2022 ***Deferred from September 13, 2022***

**RESOLUTION:** Approval of an Update to Comprehensive Plan and Land Use Map

Development Services staff is requesting approval of an update to the Comprehensive Plan and Land Use Map in its entirety. City Staff has spent the last four years preparing a new comprehensive plan to guide the community as we continue to grow and develop over the course of the next 20 years.

As provided in the Comprehensive Plan Preface – Purpose + Intent section, "At its most basic, a comprehensive plan is a statement of aspirations of the community. The plan provides guidance for the location, form, and function of growth and development, and the overall creation of a quality community. Differing from previous Comprehensive Plans for the City of West Des Moines that focused primarily on land use, transportation and infrastructure, this Comprehensive Plan goes beyond what land uses go where and the pipes and pavement which connect those land uses and embraces quality of life aspects that collectively shape the type of community West Des Moines is to be. It identifies the actions to be taken and partnerships to be created and strengthened to improve the quality of life, guide long range decisions, and to deliberately direct where West Des Moines wants to be in the future. From connectivity of streets, trails and bikeways – to diversifying the local economy and job opportunities – to ensuring equal access to housing and education – to furthering community character, health and fostering social vibrancy, this plan addresses all aspects of life in West Des Moines.

All too often, plans such as this are created, a box is checked, and the plan sits on a shelf. A primary goal with the development of this plan was to create an implementable document – one that instead of a list of policy statements with no measures to implement, utilizes actionable items targeted at developing applicable programs and policies to realize the goals and strategies laid out in the plan. This plan was developed to work hand-in-hand with the identified goals and policies of other, more specific plans which the City adopts from time to time such as, WDM2036 Vision and the associated 2036 Action Plan, other department plans including but not limited to Park and Trail Master Plans, Transportation Master Plan and the Library Master Plan.

Additionally, this plan is intended to be a budgetary tool enabling the check of intended programs and financial decisions for alignment with furthering achievement of the strategies and goals included in the plan. Our Comprehensive Plan is intended to be a strategic plan for the city to realize the community we desire to be."

*Key Aspects*: Documents and plans may be found at the following link: https://ourwdm.com/revised-final-draft-of-the-comprehensive-plan

1. *Comprehensive Plan Document:* The overall makeup of the comprehensive plan is divided into four parts: the main document and three companion documents, an Action Plan, Community Profile and Outreach & Engagement.
   - Main Document: The main document is the key component of the comprehensive plan. It is structured around eight main aspects and guides initiatives needed to make community-focused decisions for creating the future of West Des Moines:
     1. Community Design (pg. 15) – focuses on how our community looks and feels.
     2. Housing & Neighborhoods (pg. 21) – focuses on ensuring our community is a great place to live for all.
     3. Sustainability & Resiliency (pg. 25) – focuses on protecting and planning for environmental factors – locally, regionally and globally.
     4. Transportation & Infrastructure (pg. 30) – focuses on community mobility, facilities and growth considerations for both the transportation and infrastructure networks.
     5. Engagement & Wellness (pg. 35) – focuses on promoting healthy lifestyles, activities and awareness.
     6. Diversity, Equity & Inclusivity (pg. 41) – focuses on ensuring our community is welcoming, person-centered and inclusive of all identities, ages, abilities and histories.
     7. Economic Prosperity (pg. 46) – focuses on financial factors affecting resident and community vitality.
     8. Land Use (pg. 52) – focuses on managing our built and natural environment.

     Each of the topics were vetted through a series of focus groups to better understand what aspects were of importance. This information was then organized into Goals, Strategies, and Action statements within the plan.

   - Action Plan: Although the currently adopted 2010 Comprehensive Plan includes policy statements, with exception to changes to the land use map, the main document is only taken off the shelf when the city is looking to deny a project. The Action Plan with this Comprehensive Plan Update operationalizes the comprehensive plan, making it a document for continued use by staff from all departments, appointed boards and commissions, and elected officials to achieve the desired community. The Action Plan is a working document functioning as a strategic plan that identifies ideas (initiatives, programs, documents, etc.) to explore that can facilitate the accomplishment of the goals, strategies and actions identified in the main document topic tables.

     The action plan is not intended to replace any current department strategic plans, master plan documents and administrative policies already in place, but rather to support the implementation of them. The goals, strategies and actions included in this plan were developed from these existing documents and expanded upon based on ideas and comments received during outreach. The action plan is divided into the same eight topics included in the main document allowing for the organization of sub-action ideas and providing a reference number which connects each action item back to the main document. The sub-action ideas are not meant to be taken as definitive initiatives to be implemented by the city but rather as ideas to consider, research and evaluate towards identifying appropriate tactics to achieve the goals and strategies and determining if the actions of the comprehensive plan are desired, viable, achievable, valuable, and equitable for the community to implement.

One lead department and one or more secondary department(s) are indicated for each action to identify who within the city should initiate and facilitate the work. Additionally, a priority rating indicates the suggested time frame for each action. The priorities are subject to change based on City Council priorities, staff availability and potentially funding sources to accomplish the task. The actions and sub-actions may be modified during each comprehensive plan review period to address market changes, significant shifts in community needs and desires or when actions items are completed and removed the plan.

- Community Profile: The Community Profile companion document provides information on past and projected demographics for the city.
- Outreach & Engagement: The Outreach & Engagement companion document provides data on all outreach efforts completed as part of the comprehensive plan process. The document provides the complete picture of outreach and engagement that took place in identifying the elements of community importance for incorporation into the comprehensive plan.
- Transportation Master Plan & Master Parks & Trails Plan: For information and understanding, the plans are being provided in conjunction with consideration of the comprehensive plan as parks and open space, as well as the placement and design of roads can greatly impact an individual's experience in the city. A summary of each plan has been prepared by the respective department and is included in this staff report: the full master plan document(s) may be found on the Comprehensive Plan website at the following link: www.OurWDM.com. The City Council will acknowledge these as supporting documents as part of their resolution for the Comprehensive Plan update.

2. *Land Use Map:* This Comprehensive Plan is built on the idea of creating distinct and desirable places to live, work, and play throughout the city. These are places such as walkable neighborhoods, accessible open spaces, local and regional centers for employment, commerce, and civic activity. Traditional land use planning is conducted on a parcel-by-parcel basis where desired land uses are identified for each parcel with vacant or undeveloped areas often taking on the characteristics of adjacent development or zoning. Past comprehensive plans, in combination with zoning utilized the Euclidian approach which placed specific uses adjacent to others as a transition between uses believed to be incompatible (i.e. medium density is adjacent to single family, high density residential between medium density and office/commercial). This approach discouraged the intermixing of types of uses and pushed residential away from office and commercial areas thus negating walkability and instead forcing an auto dominated community.

   - Flexibility: Flexibility has been one of the key driving factors in the creation of this Comprehensive Plan as a whole; flexibility in development; flexibility in land use and place type options; and flexibility in implementation for the plan to better allow the city to adjust to changing dynamics. The flexibility that has been incorporated into this plan was intentional towards letting the market, or more appropriately the wants and needs of residents, businesses and visitors determine what should be developed. Through several iterations of mapping approaches, staff believes the desired flexibility can be achieved with a reduction in the number of land use classifications that are mapped, but also recognizing that each type of land use can vary greatly in intensity. To address the intensity aspect, this comprehensive plan incorporates a relatively new planning concept of 'Place Types'. Place types focus on the context of development and the potential impacts of the use itself or impact on the experience of pedestrian and motorists more so than the name or type of use that is implemented. Additionally, place types provide insight to development expectations which also provides information and assurances as to 'what may be developed next door'. The use of place types allows greater flexibility in the

development process and provide opportunities to promote the city's desire for unique character and design of developments while allowing development professionals to be creative in achieving the intent of an area or place type.

- Two Land Use Concepts: The Land Use Map, which is part of the Main Document is divided into two parts; Developed Areas Land Use Map (page 79) and Undeveloped Areas Land Use Map (page 81).
  - Developed Areas Land Use Map (generally that area east of 88th/S 88th Street and north of the Raccoon River) For the near future, the developed areas of the city will continue to apply the existing adopted land use classifications of the 2010 Comprehensive Plan land use map. Over the next several months, staff will continue to evaluate individual developed parcels to determine the new land use color/classification that is most appropriate given what use is currently occurring and what the development context is within each parcel. While it cannot be said with certainty at this point, it would not be staff's intention to apply a land use classification that would render a property non-conforming but rather conversely, apply a classification that would bring a property into compliance. With the exception of special situations or unless appropriate to align the zoning to how a property has been developed (i.e. a 13,000 sf single family developed parcel zoned Residential Estate), it is anticipated that zoning of developed properties would not be changed as part of application of the new land use classifications.

    Outreach in respect to the land use map component of the comprehensive plan did not include property owners/residents in the developed areas, thus additional noticing and public comment opportunities will need to be provided prior to the consideration of the assignment of the new land use classifications in the developed areas of the community. If development of an infill parcel or redevelopment of a parcel is desired during this interim period, a property owner could submit a comprehensive plan land use map amendment requesting assignment of the new land use color(s). Assignment of the new colors will not automatically change the zoning of the property; a rezoning would need to occur based on the intended development. If the type of development proposed is inconsistent with the context and uses of the area, the rezoning could be denied.

  - Undeveloped Areas Land Use Map (generally that area west of 88th/S 88th Street and south of the Raccoon River) The generally undeveloped areas of the city are classified under the new land use colors or classification system which provides five land use classifications with defined intensity levels in non-residential land use.

    It is important to realize that the land use map for consideration tonight has removed the land use colors for 5 areas of the map where the property owners have communicated their disagreement with staff's recommended land use classifications (see Land Use Map Change Requests from Property Owners bullet). This map with the colors omitted is attached to this staff report for review as it is different from the Undeveloped Land Use Map that was posted in the Comprehensive Plan provided on the website. The maps included in the final adopted Comprehensive Plan will be updated to that formally approved by the City Council.

    *UPDATE: The land use classifications have been removed from one additional area of the map. This area is located at the southeast corner of I-80 and R-22/Ute Avenue at what would be the extreme northwest corner of the city. This area has been removed in response to a meeting with representatives of the Caspe Family Jewish Campus, developers of the Prairie Fire development immediately to the east of the campus and city staff. The removal of any land use designation was done to allow time for the Jewish Camp to obtain additional*

*information and evaluate a proposed rerouting of EP True Parkway. The assignment of colors to this area will be brought back as a separate matter at a future Commission and Council meetings.*

Please keep in mind, what is shown on the Land Use Map does not change the current use of property if developed, nor does it mean a property is being annexed into the city as part of the comprehensive plan adoption. The State does give the city authority to plan outside of the corporate boundaries – it would be short-sighted of the city to not have a plan for growth and what is desired, taking into consideration what the long-range infrastructure needs for various areas will be. The new comprehensive plan actually identifies land use on less ground than did the 2010 plan as areas that have been identified for incorporation into Waukee, Van Meter or Cumming as part of an Annexation Agreement have been removed. With the exception of the removal of the Cumming Annexation Moratorium area, the south boundary of the comprehensive plan has remained essentially the same since the 1993 Comprehensive Plan Land Use Map.

- *Locations of Land Uses:* The new land use concept heavily weighs the context of the land in determining the most appropriate land use for the area. By looking at the natural features of the ground itself to determine the type/use and building size potential the site can accommodate will help to maintain and capitalize on the great natural features that West Des Moines growth areas have to offer. A secondary aspect considered during land use assignment is the anticipated location of existing and future roadways and their classification. As a general rule, natural features and roads serve as the boundaries of designated land uses. Finally, and not any less significant, potential impacts on adjacent land or property owners from possible uses that likely would be allowed in a land use classification were considered to make sure the city is using best planning practices in identifying uses that can and are appropriate to be adjacent to each other. An overall goal is to offer variety in land use to provide the flexibility across the city and meet the needs of residents and businesses. If a single land use class is provided for large areas or across more acres than necessary to address a need, the city could lose the variety in use and character in development that is desired.

  It is well known that the colors on the 2010 adopted map were heavily influenced by a few key factors:
  - property owner requests for a land use category with the highest selling price for land,
  - developer requests for specific land uses in anticipation of development, or
  - an internal city desire to have appropriate developed land values should road infrastructure be constructed via the assessment process.

  Staff does not believe these are valid reasons why a property is 'painted' a certain color. Instead, with this update, staff desired sound rationale while taking into consideration the impact to the community as a whole for determining where land uses are located. To provide the best and most appropriate context sensitive land uses for specific areas of the community, the comprehensive plan notes that the following factors should be considered.

  - Environmental Sensitivity: In alignment with Strategy 4.1 of the WDM 2036 plan which speaks to identifying and protecting environmentally sensitive areas, slopes of 35% and higher, waterways & flood prone areas, and heavily treed areas were identified. These areas are indicated on the land use map by hatching. A land use that appropriately respects and/or capitalizes on the environmental aspect was then identified. For example, development that would consist of smaller footprint buildings are more adaptable and appropriate to steeper slopes then large footprint buildings thus land uses that allow single-family and smaller,

multi-family or commercial buildings are identified for areas in which there is more topography. In many situations the environmental elements provide natural boundaries for a land use.

*UPDATE: The Planning and Zoning Commission adopted a motion for approval of the land use map conditioned on the removal of the hatching indicating environmentally sensitive areas. Staff disagrees with this as, in addition to being counter to the WDM 2036 strategy, the hatching is only intended to raise awareness that there may be site characteristics that may take more thought while planning development of the site. The hatching of the environmental areas does not prevent development of the area as the city currently does not have tree preservation regulations or prohibitions on mass grading of a site. Staff requests that the hatching signifying possible environmental aspects remain on the map, especially, since environmental areas was utilized in determining land use boundaries in many situations.*

- Walkability: Through the outreach process, staff heard from numerous individuals that they desired to be able to walk to commercial areas. Staff intentionally located commercial nodes within ¼ to ½ mile walk of residential areas. These nodes vary in size and intensity depending upon whether they are intended to serve the immediate surrounding residential, multiple neighborhoods, or draw individuals from the Metro and beyond.
- Roads: It is a given that certain land uses are more tolerant of and benefit from being adjacent to multi-lane, higher-speed roadways than do other land uses such as single-family residential. Land uses were located in response to the various street classification levels included on the revised Ultimate Street Map (now included in the associated Transportation Master Plan). This revised street map identifies road alignments that are more reflective and respectful of topographic and land feature constraints (such as creeks) than past maps have been. To assist individuals in understanding what will be near them when determining where to purchase ground, it was determined that any roadway anticipated to be of 4 or more lanes should be shown on the map (major and minor arterials and major collectors). Roadways smaller than this are generally tolerable to all types of land uses and therefore are not included on the land use map. It is recognized that a solid network of arterial and major collector roads needs to be developed; however, the number and location of connecting roads interior to the network (local roads, and to a certain degree minor collectors) could be determined by what development is occurring and what land use(s) is implemented.
- Property boundaries: Unlike the currently adopted comprehensive plan land use map, staff did not include property boundaries when placing land uses. This eliminated the locating of a certain land use based on who owns what ground and/or what use a property owner or developer specifically desires, versus what is appropriate to the environment and in the larger context of the area and city. Staff did try to accommodate known potential developments if we were aware of some level of planning having been done, and if they made sense to the surrounding uses and overall distribution of uses across the city.
- Assessments: Staff made an assumption that the city would continue the approach to explore all other possibilities to finance major roads than putting the burden of the costs on adjacent property owners through the assessment process. This reduced the need to feel compelled to place higher assessed value commercial and office along the major roadways unless it otherwise made sense. Of course, as suggested above, certain uses are more tolerant of multi-lane, high-traffic roadways than are other uses which was considered when staff assigned land uses.

- *New Land Use Map Classification and Place Types:* As indicated in the flexibility paragraph above, staff is presenting a Comprehensive Plan Land Use Map that reduces the number of land use classifications from the 24 included on the 2010 adopted map (Developed Areas Land Use Map) to 5 major categories in combination with intensity levels for the multi-use and industrial classification for this updated plan. These five land use classifications and the general type of development that may occur are:
  - Open Space – areas designated for parks, greenways, preservation areas or other low intensity recreation-oriented uses.
  - Detached Residential – detached residential single-family homes only.
  - Mixed Residential – both detached and attached residential dwellings only.
  - Multi-Use – a mix of residential, commercial, office, institutional and low-intensity industrial uses, either vertical or horizontally arranged.
    - Low – small scale activity centers serving immediately surrounding neighborhood – building size and heights compatible to typical single-family dwelling structures (generally 15,000sf footprint; generally maximum of three-stories).
    - Medium – mid-scale activity centers to provide for multiple neighborhoods within a larger area, as well as destination businesses for the whole community. Buildings generally 45,000sf footprint; generally maximum of five-stories.
    - High – core of a larger/urban scale activity center that draws from the broader region &/or auto-oriented service and retail node. Unlimited building footprints and heights. Attached residential required to provide minimum 18 dwelling units (DU) per acre to provide built-in patrons and allow for living opportunities for offices and businesses in the area.
  - Industrial:
    - Low – industrial uses that typically have limited exterior impacts (i.e., noise, smells, truck traffic, overhead doors, outdoor storage, mechanical equipment, outdoor operations, etc.). Impacts must be mitigated so they are not visible or otherwise noticeable from adjacent streets and adjoining properties. Buildings approximately 45,000 sf footprint; generally maximum of 2-story or 24' height.
    - High – heavy industrial and manufacturing uses, often with outdoor activities and storage, truck traffic, shift work, etc. Use or operation may impact or be noticeable to immediately adjacent properties.

  To address the varying intensities that can occur in any of the land use categories, this comprehensive plan incorporates a relatively new planning concept of 'Place Types'. Place types focus on the context (the look and feel of places and their form, scale and function in the built environment) instead of focusing on the name or type of specific use. Staff sees place types as a valuable tool to allowing the flexibility of implementing a variety of uses in an area as determined by market, while controlling the built environment's form and pattern context and use intensity thus providing general knowledge of what could occur next door so that one can decide if that is an environment they wish to live or operate a business. Just as the colors on the comprehensive plan map paint a picture of the general type of uses intended for an area, place types paint a picture of the design and character intent for various types of development possible within each land use color. The use of place types will allow greater flexibility in the development process and provide opportunities to promote the city's desire for unique character and design of developments while allowing development professionals to be creative in the achieving the intent. Page 70 of the main document includes a matrix identifying which place types would be appropriate and allowed within each

land use classification. Unlike other communities that have mapped where each place type may be located (eliminates flexibility in use placement), staff will use place types as a bridge between the land use map and zoning. The place type informs of the general type/uses, look and feel of development within a land use color, and informs zoning as to the regulations necessary to ensure it is created accordingly. It is fully anticipated that the resulting place type, as ultimately developed, will differ between land use classifications. For example, the Office place type in Multi-Use Low would result in smaller footprint buildings and less intense or active users than Office might in Multi-Use High which allows buildings of unlimited footprint and height and may have more activity such as high customer traffic, number of employees, hours of operation, frequent deliveries, etc. The appendix of the main document (starting on page 83) provides form and pattern development information for each place type as it relates to each land use designation that it would be allowed in.

*Land Use Map Change Requests from Property Owners:* During outreach to explain the new land use concept to developers and property owners, Staff became aware of property owners disagreement with the land use classification(s) for five specific areas from that shown on the staff created Undeveloped Areas Land Use Map that went out for public review and comment (page 81 of the main document). Since staff's proposed land use map was posted for public review and comment, staff believes any change in the identified land use classification(s) should happen as part of a public hearing to allow explanation of the reasoning behind the current proposed classification and the desire to change to be vetted in a public forum. Due to the new land use classification scheme, these changes can only be considered after the new main document and Undeveloped Area Land Use map are adopted. Due to concerns raised by the landowners at the August 29th meeting, the land use map for consideration tonight has had the land use colors for the 5 areas removed from the map (see note above in "Two Land Use Concepts", "Undeveloped Areas Land Use Map" section about 6th area for which land use has been removed). This has been done for clarity that there is not a request for approval or denial of staff's recommendation, but rather to set the stage for the Planning and Zoning Commission and City Council to discuss each situation and provide direction to staff as to what land use(s) are to be assigned in each case. It is intended that at the conclusion of the consideration of the main document and the five specific areas that a complete map will have been created. The map that will be included in the final adopted Comprehensive Plan document will reflect the land use classifications formally approved by City Council. This map with the colors omitted is attached to this staff report for review and it differs from the Undeveloped Land Use Map that was included in the Comprehensive Plan provided on the website.

- For clarity and a clear record of what each action taken by the Commission and Council is, these five areas are being presented as separate items. Separate staff reports have been prepared which provide information on the land use(s) desired by the property owner as well as details from staff on the criteria used in making staff's land use assignment decision. These five areas were known about prior to this Comprehensive Plan Update adoption meeting: any individuals making a request for a land use change at the comprehensive plan adoption meeting itself will be directed to submit a formal request to staff. Staff will prepare the same background information as the five being considered tonight and place them on the first possible meeting agenda after the appropriate traffic studies, if deemed necessary and public noticing has been completed.

- *Changes Made due to Staff and Public Review (since May 1, 2022):* The following changes have been made to the map and text document since the release of the public review version of the documents. The changes were made to address continued work by staff to enhance the plan,

comments made by other city departments, and comments received from the public during the public review period in April/May 2022.

- Map:
  - Updated Ron Sweeney Property (northeast corner of Mills Civic Parkway and S Grand Prairie Parkway) from Open Space to Mixed Residential due to a mapping error
  - Removed area south of Booneville Road, north of Raccoon River Drive, west of S. 115th Street from the map
  - Added a note on the Land Use Maps to reference Transportation Master Plan for Ultimate Street Map
- Main Document:
  - Replaced Maps with updated versions as noted above (Pg. 80-81)
  - Replaced Land Use/Place Types Matrix with an updated and revised version based on continued work by staff (Pg. 70)
  - Replaced Zoning Compatibility to New Land Use Matrix (Pg. 71-73)
  - Added a new section in the Preface of the documents to address the interpretation of land use boundaries and how boundaries may change with shifts in roadway or key feature locations. (Pg. 14)
  - Added language in the land use chapter to more clearly address the role of the place type sheets and the form and pattern information. This will provide guidance on how these desired development patterns help to create areas of the community specific to the intent of the place type. (Pg. 69)
  - Updated the Neighborhood Center place type intent statement to include limitation for Industrial Land Use class (Pg. 113)
  - Added a form and pattern table to the Neighborhood Center place type to allow the place type in the Industrial Low land use classification to provide for employees of the businesses (Pg. 114)
  - Added language in the form and pattern tables for the Limited Impact Industrial place type to address mitigation of external impacts to adjacent land use types (Pg. 129)

- *Application of Zoning:* While this plan will guide the city throughout its future growth, it is important to be clear that a comprehensive plan is a guideline. What this means is that the land use classifications or colors on the map, and the goals, strategies, and actions outlined in the main document and action plan are not regulations. The Municipal Code, especially Title 9, Zoning, and Title 10, Subdivision Regulations, governs the built environment and the physical development of individual properties.

  The process of overhauling the city's zoning code is on-going; however, it is 12-18 months away from completion and adoption. It is expected that this new zoning code will align and capitalize on the flexibility built into the land use map, as well as promote the achievement of the goals and strategies outlined in the plan. In the interim until the new code is adopted, the uses implemented, and development of properties will still occur under the existing zoning district designations and zoning and subdivision regulations the city currently has adopted. This will apply across the entire city - both in the Developed Areas and the Undeveloped areas. The zoning designation assigned to a property does need to be compatible with the identified comprehensive plan land use classification. For the developed areas of the city, page 62 provides a matrix identifying which zoning districts are appropriate for each of the 24 land use map classifications. With the introduction of place types, page 70 of the main document includes a matrix identifying which place types would be appropriate and allowed within each land use

classification. Pages 72 & 73 then provides a matrix of which current zoning designations could be applied to each place type.

The change in approach to determining land use classifications from that done with the 2010 land use map and the current proposed map as outlined in the "Location of Land Uses" section above does result in a change in the assigned land use for several properties within the undeveloped areas, especially that area south of SE Maffitt Lake Road in the southeast area of the city. It is anticipated a zone change will be necessary for many of the undeveloped parcels that are currently zoned as the current zoning designation most-likely is not compatible with the recommended new land use classification. Staff will be making this determination immediately after adoption of the land use plan and will bring forward an amendment to repeal zoning on certain properties as applicable. It should be realized until a property has developed or has valid (vested) right to complete the project as proposed, regardless of a property owner's wishes, the city has the authority, through the exercise of the police power, to change the land use designation or zoning of any property as the city sees appropriate, including what may be considered a 'down-zoning' of the property. A legal opinion has been prepared and is included in this staff report to expand upon when a property owner obtains a 'vested right'. It should be noted, it is not considered a "taking" by the city if the potential sale value of ground has a perceived decrease due to the change in land use (e.g., land use classification is changed from 'industrial' to 'residential').

- *Amendments and Future Reviews and Updates*: "As one of the fastest growing cities in the state, it would be impossible to exactly predict what the city will need in 10-20 years, but what can be done is to set goals for what our community aims to be and create a path to achieve these goals. The Comprehensive Plan is intended to be a living document that will change as the city changes, as actions are implemented, and strategies and goals achieved. As the city changes and one aspect becomes more pressing than another, or if a current strategy isn't working, this plan allows the flexibility to be modified to ensure that we still meet our goals – or add new goals as necessary." (Main Document Executive Summary)

  With the flexibility that has been built into the map, including the allowance to construct single-family and multi-family housing in office or commercial designated areas, the city should not need to do individual property amendments due to a pending development. Instead, it is desired that the developer find ground that already has an appropriate land use assignment that would accommodate the intended uses/project. It is recognized that on occasion, specific projects may be proposed for property that would necessitate a change in the assigned land use; however, it is the ultimate goal that a good process will be developed to evaluate the community benefit of the project and the resulting change to ensure it is appropriate for the surrounding area before approving any amendment(s) just because a property owner is willing to sell. To provide as much assurance to people as to what may develop next to or near to them, amendments to land use assignment should be minimized.

  As has been expressed, this comprehensive plan is intended as an implementable document – one that utilizes actionable items targeted at developing applicable programs and policies to realize the goals and strategies laid out in the plan. It is also a living document that is intended to be a working document to facilitate and guide achievement of the goals, strategies and actions outlined in the plan.

  The main document and the Action Plan companion document, as well as the Land Use Map should be reviewed, and modified accordingly, every 3-5 years to address market changes, significant shifts in community needs and desires, change in city initiatives and/or priorities, or

when action items are completed or deemed not viable and to be removed from the plan.

- *Additional Information Available:* The following background data and additional information is available upon request if needed to address outstanding questions or concerns of the Commission or Council.
  - Comparison of the adopted land use class with the proposed new land use classes.
  - Comparison of total land use areas between Adopted and Draft Land Use Map (identified in total acres by general land use).
  - Building footprint data for existing developed buildings.
  - Land Use Amendment Case Data from 2010 to 2022 – Type of Land Use Change by Acres.
  - Comparison of 2010 Comprehensive Plan Policy Statements with Action Plan.
  - Land Use Comparison Maps – Identifies areas within the planning area changing in land use, staying the same in land use, or gaining additional land use options.
  - Public comments received during the public review period of the plan and land use map.
  - List of local and regional Comprehensive Plans used as reference.

**Outstanding Issues:** There are no outstanding issues.

Plan and Zoning Commission Action:

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| Date: | September 12, 2022 |
| Vote: | 6-0 for approval with Commissioner Conlin absent. |
| Recommendation: | Adopt Update to the Comprehensive Plan, including the Land Use Map with the removal of hatching to identify potential Environmentally Sensitive Areas |

**Planning and Zoning Commission Recommendation:** Approve the Comprehensive Plan and Land Use Maps as presented by staff with the following Condition of Approval.

1. Remove hatching to identify potential Environmentally Sensitive Areas on the Land Use Map

**Staff Recommendation:** Approve the Comprehensive Plan and Land Use Maps as presented by staff, including the illustration of environmentally sensitive areas on Undeveloped Area Land Use Map.

**Lead Staff Member:** **Karen Marren**

**Approval Meeting Dates:**

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| Plan and Zoning Commission | August 29, 2022 & September 12, 2022 |
| City Council | September 13, 2022 (deferred)<br>October 17, 2022 |

**Staff Report Reviews:**

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| Plan & Zoning Commission | ☐ Development Coordinator (or)<br>☒ Director | ☒ Legal Department |
| City Council | ☐ Director<br>☐ Appropriations/Finance | ☒ Legal Department<br>☐ Agenda Acceptance |

**Publications (if applicable)**

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| Published In: | Des Moines Register Community Section |
| Date(s) Published | P&Z: 8/19/2022 & 9/2/2022<br>CC: 8/26/2022 & 9/2/2022 & September 30, 2022 |
| Date(s) of Mailed Notices | N/A |

**Council Subcommittee Review (if applicable)**

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| Subcommittee | Development & Planning |
| Date Reviewed | N/A |
| Recommendation | ☐ Yes ☐ No ☐ Split |

**CITY OF WEST DES MOINES, IOWA**
**OFFICE OF THE CITY ATTORNEY LEGAL OPINION**

TO: Mayor Russ Trimble and West Des Moines City Council
FROM: Jessica Grove, Assistant City Attorney
DATE: August 25, 2022

RE: Vested Rights

On September 13, 2022, the West Des Moines City Council will hold a public hearing to consider adoption of the 2022 Comprehensive Plan. As part of the adoption, City Council will also be adopting the new land use designations and the amended Comprehensive Plan Land Use Map. The proposed Land Use Map will change the current land use designation for some properties.

For example, a property may be designated as "commercial" land use today, but on the proposed Land Use Map the property will be designated as "residential." This proposed change is a legitimate exercise of the police power[1] to address changed conditions surrounding the property, environmental factors, or transportation/public facility impacts, etc. In this example, the proposed change in land use designation may appear to diminish the property rights held by the affected landowner. Thus, arguments may arise from affected landowners that, due to the perceived diminution in value, their property should be exempt from the amendment, and retain the previously established land use designation.

When the City Council makes a change in the land use (or zoning), a key question is whether the City has the authority to do so. The City cannot deprive property rights arbitrarily, and at some point in the development process a landowner's right to proceed with their proposed project achieves constitutional protection. When the landowner achieves this constitutional protection, they have obtained a "vested right."

To acquire a vested right, and therefore an exemption from a newly enacted law, a landowner/developer must: (1) engage in substantial expenditures (2) in good faith reliance (3) on a validly issued building permit.[2] Courts generally do not consider the purchase price of land as "substantial expenditures." If a landowner/developer misleads the City or acts in reliance on a permit known to be invalid, the Courts have considered this to be acting in "bad faith" and no rights will vest.

In summary, although the amendment may change a landowner's rights to use a property in a certain manner, the City may make such amendments to the land use (and zoning) in the reasonable exercise of the police power until the landowner has obtained a "vested right." The designation of a property as a certain land use or zoning does not form the basis of a vested right to a specific use.[3]

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[1] *See* IA Code §364.1, "A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents."

[2] *Avco Community Developers, Inc. v. South Coast Regional Com.*, 553 P.2d 546 (1976). *See also Kasparek v. Johnson County Board of Health,* 288 N.W.2d 511, 518 (Iowa 1980), "The vested rights concept is a part of the balancing of the respective legitimate interests of the private property owner against those of the general public, keeping in mind that legitimate and valuable expenditures in connection with the use of an affected tract or in a business conducted on it, before imposition of the regulation, may create a property right which cannot be arbitrarily interfered with or taken away without just compensation."

[3] *Id.* at 551. "By zoning the property ... the government makes no representation to a landowner that he will be exempt from the zoning laws in effect at the subsequent time he applies for a building permit..."

# Transportation Master Plan

**SYNOPSIS:** The City's Development Services Department has been working on an update to the Comprehensive Plan, which focuses on topics such as land use, infrastructure, quality of life, economic development, and public safety. Transportation plays a role in all these topics. The Comprehensive Plan sets the guiding transportation goals, with the Transportation Master Plan expanding on the multimodal transportation strategies, policies, and actions that support the overall goals.

Based upon the feedback of the Commission, a final draft of the Transportation Master Plan will be brought before the City Council for approval at a future meeting.

**BACKGROUND:** The Transportation Master Plan serves as a framework for efficient growth and development of the transportation system to support the overall Comprehensive Plan. It is a guide that aides City staff in planning infrastructure to meet the various mobility needs of the City's residents, businesses, and visitors. The plan is also multimodal, addressing motorized and non-motorized travel, including transit, rail, and freight. The Master Trails Plan and Bicycle Master Plan are separate, more detailed plans that focus on those specific aspects.

The City's Ultimate Streets Map, which is part of the Transportation Master Plan, illustrates the long-range layout of West Des Moines' transportation network. This map shows the existing street classifications in the city, as well as potential future street alignments that will provide for the future movement of people, goods, utilities, and emergency vehicle access. The Ultimate Streets Map is used as:

- A resource to inform decision-making by property owners, developers, and City staff
- A tool to assist in the preservation of adequate rights-of-way for future street corridors
- A tool to assist in planning for connectivity across the City, establishing detour routes and emergency routes, and siting of future public safety buildings
- A tool to ensure City-defined projects remain eligible for consideration for grant funding

The draft Transportation Master Plan is available at the following link: https://ourwdm.com/revised-final-draft-of-the-comprehensive-plan. The public was invited to provide comments on the plan through the end of April 2022 as part of the public review for the Comprehensive Plan and Master Parks and Master Trails Plans.

**Prepared by:** Eric Petersen, Principal Traffic Engineer
**Approved for Content by:** Brian Hemesath, City Engineer, Director of Engineering Services

# Master Parks and Trails Plan

**BACKGROUND:** The City's Development Services Department has been working on an update to the Comprehensive Plan. They have recently completed a draft plan which includes a variety of proposed land use changes. The changes in land use, particularly residential uses, impact both the Existing and Proposed Parks Map and Existing and Proposed Trails Map that are part of the West Des Moines Master Parks and Trails Plan. Based upon proposed land use, Parks and Recreation staff made associated adjustments to the two maps. The maps, as approved by the Parks and Recreation Advisory Board, are attached. Changes to the maps are guided by policies in the West Des Moines Master Parks and Trails Plan adopted in 2001 which are not being changed. The Master Plan Policies and associated tables are attached.

The City's citizen survey confirms that the guiding policies remain relevant with 87% of residents satisfied or very satisfied with the number of City parks, 82% satisfied or very satisfied with walking and biking trails, and 81% satisfied or very satisfied with the number and quality of greenway areas (2020 ETC Institute Direction Finder Citizen Survey). More importantly, these policies, combined with the adjustments being made in response to changes in land use, ensure that the City's parks and trails system equitably serves all residents.

The updated Existing and Proposed Parks Map and Existing and Proposed Trails Map were reviewed by the Parks and Recreation Advisory Board over a period of several months. A public hearing was held at the Parks and Recreation Advisory Board meeting held on June 16, 2022. Minutes from that meeting are attached that include comments received from the public. The public was also invited to provide comments on the two updated maps through the end of April 2022 as part of the public review for the Comprehensive Plan.

The two maps are guiding documents that assist city staff in efforts to ensure that current and future residents have sufficient opportunity to utilize and enjoy park and recreational activities in a safe, convenient, and accessible way. The maps establish a framework of existing and proposed parks along with trails and greenways that link together the City's parks and recreation system.

## Existing and Proposed Parks Map

The City's park system currently encompasses 1,500 acres of parkland with 26 parks, three special use facilities, one natural resource area, one large urban park, fourteen greenways, and 69 miles of trails. Parks range in size from 1-acre Pinedale Park to Raccoon River Park, which is over 630 acres. The parks are classified by different park types with guidelines for size and service area as follows:

| ***Park Classification*** | ***Size Range*** | ***Service Area*** |
|---|---|---|
| Mini-Parks | Less than 2 acres | ½ mile radius |
| Neighborhood Parks | 5 to 10 acres | ¾ mile radius |
| Community Parks | 30 to 100 acres | 3-mile radius |

There are no guidelines for other classifications (Large Urban Parks, School-Parks, Special Use Facilities, Natural Resource Areas, Sports Complexes, and Greenway/Trails) due to their unique character and location requirements. Further information on each park classification can be found in attached Table 6-1: Park and Recreation Facility Attributes; Table 6-2: Park and Recreation Facilities; Table 6-3: Park and Recreation Support Facilities; and Table 6-4: Park and Recreation Support Services.

Future parks are identified on the Existing and Proposed Parks map as park 'nodes', which determine a general park location. The 'nodes' provide flexibility during the master planning stage with exact locations determined when development occurs. The adjustments to the map in response to land use changes are quite minor with a total of two parks being added to ensure equitable park service levels. The table below shows the difference in number of parks shown on the map adopted in 2001 compared to the updated map.

| ***Park Classification*** | ***Existing*** | ***Adopted Plan*** | ***Updated Plan*** | ***Difference*** |
|---|---|---|---|---|
| Mini-Parks | 4 | 12 | 17 | +5 |
| Neighborhood Parks | 18 | 37 | 35 | -2 |
| Community Parks | 4 | 5 | 4 | -1 |
| | | | | |
| ***TOTAL NUMBER OF PARKS*** | 26 | 54* | 56* | +2 |

*Includes existing parks

The most significant change in the updated map is the number of mini-parks. This is primarily due to the changes in land use that, if approved, will allow residential uses in areas that had previously been designated for commercial or office uses. In some cases, existing park service areas do not cover these potential new residents. Mini-parks are being planned in these small areas to provide an equitable level of service if development ultimately includes residential uses.

**Existing and Proposed Trails Map**

The Existing and Proposed Trails Map establishes a framework of future trail locations that work with proposed land uses, existing trails, existing and proposed parks and greenways, and the City's Transportation Plan. Trails are also coordinated with the plans of adjacent communities to ensure a continuous trail system that does not end at the City's borders.

The table below shows the difference in number of miles of trails shown on the map adopted in 2001 compared to the updated plan.

| | ***Existing*** | ***Adopted Plan*** | ***Updated Plan*** | ***Difference*** |
|---|---|---|---|---|
| Miles of Trails | 69 | 212 | 202 | -10 |

Trails continue to be requested and supported by West Des Moines residents. Results of the 2020 Citizen Survey showed that walking and biking trails in the city and access to destinations via the bike and trail system are the two most important parks and recreation services to provide. While the total miles of trails have decreased slightly in the updated Existing and Proposed Trails Map, at full build-out, the City's trail system is expected to nearly triple in size. Most of the growth is taking place along and south of the Raccoon River made possible by proposed trail bridges that allow pedestrian access across the river. With a trail now planned along the north side of Ashworth Road, trails have also been added in the northeast area of the city which is not served by the existing trail system.

Like the park 'nodes' on the Existing and Proposed Parks Map, trails identified on the Existing and Proposed Trails Map are shown in general locations, especially those located within greenways. This provides for flexibility at the master planning stage with exact locations determined when development occurs.

The Bicycle Master Plan, a complimentary but separate plan outlining on-street bike facilities, is not being considered at this time. Once the Existing and Proposed Trails Map and Transportation Master Plan have been adopted by City Council, staff will be reviewing the Bicycle Master Plan and making any necessary revisions.

Master Parks and Trails Plan and documents indicated as attached in the above may be found at the following link: https://ourwdm.com/revised-final-draft-of-the-comprehensive-plan

**Lead Staff Member:** Sally Ortgies, Director of Parks and Recreation

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION**
**NO. PZC-22-080**

**WHEREAS,** pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant, Development Services staff, request approval of an update to the Comprehensive Plan, including Transportation Master Plan and Master Parks and Trail Plan as supporting documentation, and the Land Use Map to replace both the document and land use map in its entirety.

**WHEREAS,** the comprehensive plan amendment complies with the applicable provisions of Iowa Code Chapter 414 and City Code.

**NOW, THEREFORE,** the Plan and Zoning Commission of the City of West Des Moines recommends that City Council approve the amendment to the Comprehensive Plan and Land Use Map, *with removal of hatching illustrating environmentally sensitive areas from the Undeveloped Area Land Use Map* (CPA-005581-2022) subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

**PASSED AND ADOPTED** on September 12, 2022.

Jennifer Drake, Chair
Plan and Zoning Commission

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 September 12, 2022, by the following vote:

AYES: Costa, Crowley, Davis, Drake, Hatfield, Shaw

NAYS:

ABSTENTIONS:

ABSENT: Conlin

ATTEST:

Recording Secretary

Prepared by: Karen Marren, City of West Des Moines Development Services Dept., PO Box 65320, West Des Moines, Iowa 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING THE COMPREHENSIVE PLAN LAND USE UPDATE AND ADOPTING THE COMPREHENSIVE PLAN**

**WHEREAS,** pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant, Development Services staff request approval of the updated Comprehensive Plan and Land Use Map to replace the documents in its entirety and identify the land use classification of all property within the City Planning area as indicated on the Developed Area Land Use Map included as page 79 of the main document, and Undeveloped Area Land Use Map attached hereto as Exhibit "A" updated as directed; and

**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; and

**WHEREAS,** the Comprehensive Plan Land Use Map complies with applicable provisions of Iowa Code Chapter 414 and City Code; and

**WHEREAS,** on September 12, 2022, the Plan and Zoning Commission did recommend to the City Council, by a 6-0 vote, for approval of the Comprehensive Plan and Land Use Maps conditioned with removal of hatching to identify environmentally sensitive areas from the Undeveloped Area Land Use Map; and

**WHEREAS,** on this day this City Council held a duly noticed Public Hearing to consider the application for Comprehensive Plan and Land Use Map Update.

**NOW, THEREFORE,** The City Council hereby approves the Comprehensive Plan documents and Land Use Map (CPA-005581-2022) as shown on attached Comprehensive Plan Undeveloped Area Land Use Map to be updated accordingly at the conclusion of this October 17, 2022 meeting per the direction of the City Council, subject to compliance with all the conditions in the staff report, dated October 17, 2022, including conditions added at the meeting, and attached hereto as Exhibit "B". Violation(s) of any such condition(s) shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

**PASSED AND ADOPTED** on October 17, 2022.

_____
Russ Trimble, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on October 17, 2022, by the following vote.

**Exhibit A: Undeveloped Area Land Use Map**
(See page 79 of Main Document for "Developed Area Land Use Map")

## Exhibit B: Conditions of Approval

None.