



Council Communication

Office of the City Manager

Date

May 5, 2008

Agenda Item No. 43

Roll Call No. 08-

Communication No. 08-267

Submitted by: Larry Hulse, Community
Development Director

AGENDA HEADING:

Public Hearing and Approving Text Amendments to the Zoning Ordinance Revising Section 134-1296 to Provide Standards for Public Franchise Utility Cabinets and Communication Systems, as Defined by Municipal Code Sec. 110-86 Located Within a Front Yard.

SYNOPSIS:

Recommend Council hold hearing on request from Qwest Communications (Qwest) and approve first consideration of text amendments to the Zoning Ordinance revising Section 134-1296 to provide standards for public franchise utility cabinets and communication systems, as defined by Municipal Code Sec. 110-86 located within a front yard. Qwest (Carroll Wheaton, regional manager, 2103 E. University Avenue, Des Moines, IA 50317) has requested the text amendments to allow utility cabinets and boxes or groupings of utility cabinets and boxes within the required front yard. Based upon the current definition of a “yard” in the Zoning Ordinance, such cabinets must be 36 inches or less in height. This regulation has historically been interpreted such that no single dimension of the utility cabinet (height, width, or depth) may exceed 36 inches.

On April 3, 2008, the Plan and Zoning Commission reviewed the request from Qwest and recommended amendments to Section 134-1296 of the Zoning Ordinance to exempt public franchise utilities and communication systems (as defined in Section 110-86) in a front yard from the 36 inch dimensional limitation, subject to the following restrictions (these restrictions are outlined in greater detail in Exhibit “A,” which has been attached to the roll call):

- The exemption is applicable in Residential and Commercial zoning districts, or a portion of a PUD district or PBP district designated for residential or commercial uses, but excludes properties that are located in the R-HD District, a designated local historic district or on any property designated as a local landmark.
- No dimension of an individual cabinet may exceed 55 inches, excluding any required utility meters.
- The maximum outer dimension of any area or pad containing a grouping of utility cabinets on a single property shall not exceed a dimension of 4 feet wide (parallel to the front lot line) by 8 feet deep (perpendicular to the front lot line).
- Cabinet groupings on the same block face must be separated by at least 300 feet in Residential districts and 100 feet in Commercial districts.
- Cabinets must be setback at least 5 feet from any lot line and any public right-of-way.
- Any grouping of cabinets or boxes on a single property must be placed in an orderly and sequential arrangement as approved by the Zoning Enforcement Officer.
- All utility cabinets and boxes on a single property must have a common color as approved by the Zoning Enforcement Officer.

- Any utility meter mounted to the exterior of a cabinet or box shall be screened from public view as approved by the Zoning Enforcement Officer.
- Any cabinet with a dimension greater than 55 inches is subject to the obtainment of a “Variance” from the Zoning Board of Adjustment.

FISCAL IMPACT:

Amount: Indeterminate. Qwest must negotiate easements to locate on private property and are subject to the right-of-way management program if located in public right-of-way.

Funding Source: N/A.

ADDITIONAL INFORMATION:

Through this item, Council is being asked to approve the first consideration of the text amendments that the Plan and Zoning Commission recommended for approval at its April 3, 2008 meeting. Since that meeting, however, Qwest has contacted City Staff and requested revisions to the ordinance amendments recommended by the Plan and Zoning Commission. Qwest has indicated that the maximum pad size of 4 feet (parallel to the front line) and 8 feet (perpendicular to the lot line) is not large enough to accommodate access to the cabinets and that the 5 foot setback requirement is onerous. Qwest has requested a 4 foot by 12 foot maximum area be allowed; that the 12 foot dimension be allowed parallel to the front lot line; and elimination of the 5 foot setback requirement so that Qwest has the flexibility to locate the equipment entirely in the right-of-way.

Council may choose to address the additional requests made by Qwest since April 3rd in addition to considering the Plan and Zoning Commission recommended amendments. Staff has reviewed these requests and would not be opposed to a slightly larger pad area; with this change, the maximum outer dimension of any area or pad containing a grouping of utility cabinets on a single property would not exceed a dimension of 4 feet wide (parallel to the front lot line) by 12 feet deep (perpendicular to the front lot line) as opposed to the 4 foot by 8 foot maximum area defined in the Plan and Zoning recommended amendments. However, based upon the Plan and Zoning Commission’s discussion of this issue, staff does not recommend the allowance of the 12 foot dimension parallel to the front lot line or the elimination of the 5 foot setback requirement. Staff believes that elimination of these provisions will result in a wall of cabinets installed on private property adjacent to the sidewalk or in the public right-of-way.

PREVIOUS COUNCIL ACTION(S):

Date: April 21, 2008.

Roll Call Number: 08-668

Action: [On](#) request from Qwest Communications for a zoning text amendment revising Section 134-1296 to provide standards for public franchise utility cabinets located in the front yard, (5-5-08). Moved by Vlassis to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: April 3, 2008

Roll Call Number: N/A

Action: Plan and Zoning Commission recommended approval of the proposed ordinance by a vote of 12-2.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second and final consideration of the ordinance.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.