



Roll Call Number

Agenda Item Number

48

Date May 8, 2023

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 134-2.2.9, relating to the requirement for future PUD performance bonds",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage. Seconded by _____.

FORM APPROVED:

(First of three required readings)

Lisa A. Wieland
Lisa A. Wieland
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 134-2.2.9, relating to the requirement for future PUD performance bonds.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 134-2.2.9 relating to the requirement for future PUD performance bonds, as follows:

134-2.2.9 PUD, PLANNED UNIT DEVELOPMENT (LEGACY) DISTRICT

- A. No applications to establish new PUD zoning districts or to expand the boundaries of existing PUD zoning districts may be accepted for processing after the effective date specified in section 134-1.3 of this chapter, except that any PUD rezoning applications that were in process on the effective date specified in section 134-1.3 of this chapter may continue to be processed and may be approved in accordance with the transitional provisions of section 134-1.3 of this chapter.
- B. Land classified in a PUD zoning district on the effective date specified in section 134-1.3 of this chapter will continue to be classified in a PUD district and governed by the ordinance approving the PUD zoning designation, except section 134-698(2) requiring performance bonds, which section shall only apply to those projects approved by the City prior to May 1, 2023, and all applicable conditions of approval, conceptual plans, and development plans associated with the approved development until the subject PUD is rezoned to another (non-PUD) classification.
- C. In the event that the ordinance approving a PUD zoning designation and all applicable conditions of approval, conceptual plans, and development plans, including amendments thereto, do not regulate any subject(s) addressed in this chapter, the regulations of this chapter related to said subject(s) shall apply to, and be enforceable on, all land classified in said Legacy PUD district on and after the effective date of this chapter.
- D. All Legacy PUD final development plans that substantially conform to the applicable PUD conceptual development plans, and all amendments to Legacy PUD conceptual development plans and final development plans determined by the development services director to be minor in scope, must be reviewed and approved by the development services director, following the same general process as a Type 1 zoning exception pursuant to section 134-6.5 of this chapter; conditions of approval or denials may be appealed to the plan and zoning commission and city council following the same general process as a zoning map amendment pursuant to sections 134-6.3.5-9 of this chapter. All amendments to Legacy PUD

conceptual development plans determined by the development services director to be major in scope must be roved by the city council after review and recommendation of the plan and zoning commission, following the same general process as a zoning map amendment pursuant to section 134-6.3 of this chapter. Review pursuant to this subsection shall include review by the development services department for conformance with chapter 135 of this code.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Lisa A. Wieland
Lisa A. Wieland
Assistant City Attorney

May 2, 2023

Communication from the City Plan and Zoning Commission advising that at their April 20, 2023 meeting, the following action was taken regarding a consideration of a City-initiated Zoning Ordinance Text Amendment to Municipal Code Section 134-2.2.9, pertaining to Planned Unit Development (Legacy) Districts.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Dan Drendel	X				
Leah Rudolphi	X				
Carol Maher	X				
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper	X				
Todd Garner					X
Johnny Alcivar					X
Justyn Lewis	X				
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb					X
Katie Gillette					X

APPROVAL of the proposed amendment to Des Moines Municipal Code Section 134-2.2.9, pertaining to Planned Unit Development (Legacy) Districts and regulations.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed amendment to Des Moines Municipal Code Section 134-2.2.9, pertaining to Planned Unit Development (Legacy) Districts and regulations.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed amendment would revise sections of the Municipal Code that relate to Planned Unit Development (Legacy) Districts requirements to align the review process of property within a PUD to the process for property not within a PUD.

The review process for property not within a PUD involves requirements for any necessary bonding to occur through the typical platting and public improvement process. The current review process for property within a PUD (Legacy) District requires an extra step of acquiring a restoration bond in addition to bonding acquired during the platting and public improvement process. Alignment of the review processes would ensure a more concise and streamlined development review process.

The following sections of the Municipal Ordinance identify the proposed amendment to the subject section of the Zoning Ordinance as well as the extant reference to the retired Zoning Ordinance.

Section 134-2.2.9 PUD, Planned Unit Development (Legacy) District:

- B. Land classified in a PUD zoning district on the effective date specified in section 134-1.3 of this chapter will continue to be classified in a PUD district and governed by the ordinance approving the PUD zoning designation, except section 134-698(2) requiring performance bonds, which section shall only apply to those projects approved by the City prior to May 1, 2023, and all applicable conditions of approval, conceptual plans, and development plans associated with the approved development until the subject PUD is rezoned to another (non-PUD) classification.

(Retired) Sec. 134-698. Documents required with development plan.

Every development plan submitted pursuant to this division shall be accompanied by the following documents, unless such documents have been previously submitted to the community development department:

- 2) Performance bonds approved by the city legal department and director of finance in an amount not less than the estimated cost of the following:
 - a. Stabilizing the site if the grading and soil erosion measures are not done in accordance with the approved grading plan, which may include but not be limited to grading, seeding and/or construction of retaining walls.
 - b. Amenities and facilities proposed for construction or installation on any land within the entire PUD district to be either:
 - 1. Dedicated to the city; or
 - 2. Used as common land which will not be dedicated to the city.

Staff believes that the proposed amendment complies with the goals of the PlanDSM: Creating Our Tomorrow comprehensive plan. See section II of this report for additional information on PlanDSM.

II. PLANDSM: CREATING OUR TOMORROW COMPREHENSIVE PLAN

PlanDSM: Creating Our Tomorrow is the City's Comprehensive Plan. The proposed amendment to Chapter 134 (Zoning Ordinance) is consistent with the following goals and policies of PlanDSM:

Land Use Goal 1

Develop new land development regulations consistent with this Comprehensive Plan, include development standards, provide for a mixture of land uses, mandate protection of natural resources, and promote flexible approaches to implementing the Plan.

LU1: Develop a new Zoning Ordinance and other land development regulations consistent with the goals and policies of PlanDSM.

LU3: Ensure new zoning and land use regulations promote development and redevelopment that is compatible with the neighborhood character and reduces negative impacts between incompatible uses.

Housing Goal 4

Preserve, maintain, and improve the existing inventory of single-family and multi-family housing.

H15: Evaluate existing occupancy standards, zoning codes, and design standards to remove barriers that impact access, development, and maintenance of safe and affordable housing for all residents.

H16: Streamline permit and development processes to encourage development in accordance with applicable regulations.

Economic Development Goal 4

Foster a sustainable economy.

ED18: Assist redevelopment and infill development on sites with adequate infrastructure through incentives, intergovernmental coordination, and facilitated processes.

SUMMARY OF DISCUSSION

Abby Chungath asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the proposed amendment to Des Moines Municipal Code Section 134-2.2.9, pertaining to Planned Unit Development (Legacy) Districts and regulations.

Motion passed: 11-0

Respectfully submitted,

Bert Drost

Bert Drost, AICP
Planning & Urban Design Administrator

BAD:tjh



- a. Automatically extending membership in the association to all owners of units within the development.
- b. Limiting the uses of the common property to those permitted by the final development plan.
- c. Granting to each owner of a unit within the development the right to the use and enjoyment of the common property.
- d. Placing the responsibility for operation and maintenance of the common property in the association.
- e. Giving every owner of a unit voting rights in the association.
- f. If the development will include rental units, stating the relationship between the renters and the association and the rights renters shall have to the use of the common land.

(2) Performance bonds approved by the city legal department and director of finance in an amount not less than the estimated cost of the following:

a. Stabilizing the site if the grading and soil erosion measures are not done in accordance with the approved grading plan, which may include but not be limited to grading, seeding and/or construction of retaining walls.

b. Amenities and facilities proposed for construction or installation on any land within the entire PUD district to be either:

1. Dedicated to the city; or

2. Used as common land which will not be dedicated to the city.

(3) Covenant to run with the land, in favor of the city and all persons having a possessory interest in any portion of the development premises, providing that the owners of the land or their successors in interest shall maintain all interior streets, parking areas, sidewalks, parks, and plantings which have not been dedicated to the city in compliance with city ordinances and with the development plan as approved by the city council, which covenant shall be recorded by the developer in the office of the county recorder.

(4) Warranty deeds to all land to be dedicated to the city, all required easements and all agreements which may be required by the city council at the time of conceptual plan approval, provided that all such deeds and any such easements and agreements which run with the land shall be recorded by the developer in the office of the county recorder.

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- D. All Legacy PUD final development plans that substantially conform to the applicable PUD conceptual development plans, and all amendments to Legacy PUD conceptual development plans and final development plans determined by the development services director to be minor in scope, must be reviewed and approved by the development services director, following the same general process as a Type 1 zoning exception pursuant to section [134-6.5 of this chapter](#); conditions of approval or denials may be appealed to the plan and zoning commission and city council following the same general process as a zoning map amendment pursuant to sections [134-6.3.5-9 of this chapter](#). All amendments to Legacy PUD conceptual development plans determined by the development services director to be major in scope must be reviewed by the city council after review and recommendation of the plan and zoning commission, following the same general process as a zoning map amendment pursuant to section [134-6.3 of this chapter](#). Review pursuant to this subsection shall include review by the development services department for conformance with chapter 135 of this code.