



Roll Call Number

19-1445

Agenda Item Number

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Date September 9, 2019

**RESOLUTION HOLDING HEARING ON PROPOSED ZONING ORDINANCE,
PLANNING AND DESIGN ORDINANCE, CITYWIDE ZONING MAP AMENDMENT,
AND REVISIONS TO DES MOINES MUNICIPAL CODE REFLECTING ADOPTION
THEREOF, AND APPROVING TEMPORARY MORATORIUM ON
REZONING APPLICATIONS**

WHEREAS, the City's existing zoning ordinance, set forth in Chapter 134 of the Des Moines Municipal Code, was comprehensively written in 1965 and has been amended over 300 times thereafter; and

WHEREAS, in 2014, the City Council approved funding for creation of a new comprehensive plan and zoning ordinance for the City of Des Moines; and

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan as the comprehensive plan for the City of Des Moines; and

WHEREAS, on March 21, 2016, by Roll Call No. 16-478, the City Council accepted the proposal of Duncan Associates, CodaMetrics, and the Lakota Group to prepare a comprehensive rewrite of the existing zoning ordinance and authorized the City Manager to negotiate and execute contracts to implement said proposal, and City Council thereafter approved the First Amendment to said contract on April 3, 2017 by Roll Call No. 17-0592; and

WHEREAS, the zoning ordinance revision process undertaken by City staff and the City's consultant included two public review drafts, multiple Steering Committee meetings and stakeholder meetings, review of over 300 public comments and 350 staff comments, and Plan and Zoning Commission and City Council workshops; and

WHEREAS, on July 25, 2019, the members present of the Steering Committee unanimously agreed to recommend approval to the City's Plan and Zoning Commission of the proposed Zoning Ordinance, which would repeal and replace existing Chapter 134 of the Des Moines Municipal Code and Article 5 of which would repeal and replace the City's Wireless Telecommunications Facility Policy adopted on April 8, 2019 by Roll Call No. 19-0580; the proposed Planning and Design Ordinance, which would repeal and replace portions of existing Chapter 82 and the City's Site Plan Ordinance and Site Plan/Landscape Policies adopted March 22, 2004 with a new Chapter 135 of the Des Moines Municipal Code; and to adopt the updated Citywide Zoning Map rezoning all real property within the City limits of the City of Des Moines to reflect the newly designated zoning districts as defined in the proposed Zoning Ordinance; and

WHEREAS, said recommendation of the Steering Committee was subject to inclusion and modification of the substantive and minor revisions to the proposed Zoning Ordinance and Planning and Design Ordinance as presented to the Committee by City staff, which City staff revisions and Committee-requested modifications were provided to the Plan and Zoning Commission; and



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WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 1, 2019, its members voted 14-0 in support of a motion to recommend **APPROVAL** of the proposed Zoning Ordinance, the proposed Planning and Design Ordinance, the updated Citywide Zoning Map, and necessary revisions to Chapter 82 of the Des Moines Municipal Code relating to the adoption of said proposed Zoning Ordinance and Planning and Design Ordinance, subject to deletion of minimum house size requirements for House Types A, B, C and D as presented in the recommendation by City staff and by the Steering Committee; and

WHEREAS, following the City Council Workshop on August 26, 2019, the City Manager and City staff prepared a list of additional revisions, as attached hereto, which revisions have been incorporated into the text of the proposed ordinances where applicable; and

WHEREAS, the proposed Zoning Ordinance, Planning and Design Ordinance and ordinance updating the Citywide Zoning Map, in forms consistent with the recommendation of City staff and the Steering Committee as modified by the additional revisions attached hereto, and the proposed ordinance making necessary revisions to Sections 2-923, 10-5, 10-43, 14-180, 14-183, 18-56, 18-137, 26-302, 26-303, 26-802, 26-805, 30-291, 30-293, 30-334, 42-56, 42-86, 42-254, 42-258, 42-553, 42-555, 50-35, 78-10, 78-61, 78-67, 78-74, 82-1, 82-3, 82-41, 82-77, 82-206 through 82-219, 98-75, 98-76, 98-116, 102-191, 102-359, 102-379, 102-608, 102-1010, 114-361.02, and 114-632 of the Des Moines Municipal Code relating to the adoption of said proposed Zoning Ordinance and Planning and Design Ordinance (hereinafter "cross-reference amendments ordinance"), all are on file and available to the public for viewing in the office of the City Clerk, along with written communications received by the City's Planning Administrator via the City's PlanDSM website; and

WHEREAS, on August 19, 2019, by Roll Call No. 19-1318, it was duly resolved by the City Council that the proposed adoption of the proposed Zoning Ordinance, Planning and Design Ordinance, Citywide Zoning Map ordinance, and cross-reference amendments ordinance be set down for public hearing on September 9, 2019 at 5:00 p.m. in the Council Chambers at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed Zoning Ordinance, Planning and Design Ordinance, Citywide Zoning Map ordinance, and cross-reference amendments ordinance; and

WHEREAS, in accordance with the notice, those interested in the proposed ordinances, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, a temporary moratorium on the approval of rezoning applications for any zoning district other than to Planned Unit Development (PUD) is necessary and appropriate to prevent rezoning to districts that will not exist and the intended use of property that may not be permitted



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as of the effective date of the Zoning Ordinance and Citywide Zoning Map ordinance, with any properties rezoned to Planned Unit Development during the moratorium period becoming Legacy Planned Unit Developments upon said effective date.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that:

1. Upon consideration of the facts, statements of interested persons and arguments of counsel, any and all objections to said proposed Zoning Ordinance, Planning and Design Ordinance, Citywide Zoning Map ordinance, and cross-reference amendments ordinance be and the same are hereby overruled, and the hearing is closed.
2. The City Council hereby makes the following findings in support of the proposed Zoning Ordinance, Planning and Design Ordinance, Citywide Zoning Map ordinance, all as updated by the list of additional revisions attached hereto, and the cross-reference amendments ordinance (collectively "ordinances"):
 - a. Said ordinances are necessary to protect and preserve the rights, privileges, and property of the city and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, for the reasons stated herein.
 - b. The Zoning Ordinance and Citywide Zoning Map ordinance are further necessary to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the community.
 - c. Said ordinances provide more options and a streamlined approach to remedy the issues caused by the current Zoning Code, written in 1965 and amended over 300 times, of conflicting procedures and inefficient application processes resulting in delay for property owners and developers and detriment to the City's goals of efficiency and affordability in the planning, design, and zoning processes.
 - d. Said ordinances provide a planning and zoning vision and strategy for Des Moines and its neighborhoods for future decades, and insure that the cost to the City of providing services and infrastructure throughout Des Moines is sustainable.
 - e. Said ordinances complement Des Moines' current role as a leader in the metropolitan area in providing affordable housing opportunities, including options for residents to move, downsize, and grow within their homes and neighborhoods and to have access to transit corridors for cost-effective mobility, while ensuring that diverse housing types are built in the City and that public infrastructure and services are utilized in an efficient, effective manner.
 - f. Consistent with the City's current and planned neighborhood revitalization efforts, said ordinances protect the character and vitality of existing and new neighborhoods through design standards, while valuing the importance of in-fill construction that enhances value and matches the character of existing neighborhoods.
 - g. Said ordinances are consistent with PlanDSM: Creating Our Tomorrow Plan, the comprehensive plan for the City of Des Moines, and meet the multiple goals thereof including but not limited to the following:



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- i. Land Use (LU) 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.
 - LU1.3: 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.
- ii. Land Use (LU) Goal 2: Direct new growth and redevelopment to areas with existing infrastructure and nodes and corridors based on proximity to transit, shopping, services, and public amenities.
 - LU2.8: Encourage continued redevelopment and enhancement of regional nodes emphasizing a mix of uses, ease of access by transit, enhanced walkability, and high density residential.
 - LU2.10: Prioritize new mixed use development and redevelopment along proposed high capacity transit corridors and nodes.
 - LU2.13: Encourage high-density housing in identified nodes and along corridors that provide convenient access to public transit, public amenities and services, schools and open space, and are in close proximity to job centers.
 - LU2.15: Prioritize development and redevelopment in areas with existing infrastructure and properties included in adopted Urban Renewal Plans.
 - LU2.16: Require new development in recently annexed areas to work with the City to evaluate the cost of providing City infrastructure and services to ensure development has a positive financial return on any city investment.
- iii. Land Use (LU) Goal 4: Continue to embrace the distinct character of Des Moines' neighborhoods while allowing for new development and redevelopment.
 - LU 4.25: Require new development and redevelopment to be compatible with the existing neighborhood character.
- iv. Transportation Goal 4.22: Encourage higher densities and mixed-use transit oriented development (TOD) to locate on transit corridors.
- v. Housing (H) Goal 1: Provide a diversity of housing options to accommodate residents of all ages, income levels, household sizes, and cultural backgrounds.
 - H1: Ensure an adequate supply of housing through a mix of new development, infill development, and redevelopment of existing properties.
 - H4: Promote accessible, affordable, and age-friendly housing alternatives in all neighborhoods to accommodate persons with disabilities and allow seniors to age in place, in proximity to known services, and with easily accessible quality open space.
 - H5: Address availability and affordability of housing options for all families.
- vi. Housing (H) Goal 2: Preserve, maintain, and improve the existing inventory of single-family and multi-family housing.
 - H16: Streamline permit and development processes to encourage development in accordance with applicable regulations.



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- vii. Housing (H) Goal 3: Promote sustainable housing development that utilizes existing resources and supports compact, walkable, and bikeable neighborhoods.
 - H17: Encourage the use of existing public infrastructure by focusing housing development on infill, vacant, and under-developed land.
 - H19: Encourage mixed use development that incorporates affordable and market rate housing along transit corridors and in neighborhood nodes.
 - H20: Prioritize housing development at an increased density in locations that are close to public transit, shopping, public amenities, schools, and open spaces.
 - viii. Housing (H) Goal 4: Support development of and access to quality housing affordable to all income level households.
 - H23: Support and promote a regional approach to provision of affordable housing.
 - ix. Community Character and Neighborhoods (CCN) Goal 1: Embrace the distinct character offered in each of Des Moines' neighborhoods.
 - CCN2: Ensure a diverse mix of housing types, styles, scales, density, and affordability that complement existing neighborhood character.
 - CCN4: Adopt high quality development standards, such as zoning district and site plan regulations, and design guidelines related to form, massing, and materials that lead to the development of attractive, walkable neighborhoods.
 - CCN5: Ensure infill development is sensitive to the existing character of the neighborhood.
 - x. Community Character and Neighborhoods (CCN) Goal 2: Further Des Moines' revitalization efforts to improve the strength, stability, and vitality of all neighborhoods.
 - xi. Community Character and Neighborhoods (CCN) Goal 3: Promote the redevelopment and revitalization of neighborhood nodes and corridors.
3. The proposed Zoning Ordinance, Planning and Design Ordinance, Citywide Zoning Map ordinance, all as updated by the list of additional revisions attached hereto, and the cross-reference amendments ordinance, in form on file in the office of the City Clerk, are hereby approved, subject to final passage of each respective enacting ordinance and effective as of December 15, 2019.
4. The City's Wireless Telecommunications Facility Policy adopted on April 8, 2019 by Roll Call No. 19-0580 and the City's Site Plan Ordinance and Site Plan/Landscape Policies adopted March 22, 2004, are hereby repealed and replaced by the proposed Zoning Ordinance and Planning and Design Ordinance, respectively, subject to final passage of each respective ordinance and effective as of December 15, 2019.
5. The City Manager and his designee(s) shall continue to work with the City Council, the City Plan and Zoning Commission, and other interested parties to review the functionality of said ordinances, and shall present proposed amendments to said ordinances, if any, to City Council for consideration no later than September 2020.
6. In the event that any owner of property applies for rezoning, conditional use approval, Type 1 or Type 2 zoning exceptions, or variances under the Zoning Ordinance, and/or applies for Type 1 or Type 2 design alternatives under the Planning and Design Ordinance, the Community



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Development Director and his designee(s) are directed to review and consider any conditions previously approved by the Plan and Zoning Commission or by City Council that were applicable to the subject property prior to the effective date of said ordinances when making recommendations and decisions on approval and conditions.

7. The Community Development Director and his designee(s) shall allow property owners and developers to provide "stock plans" for House Types A, B, C and D under the Planning and Design Ordinance, which plans shall be kept on file with the Community Development Department following their approval and which plans may be used to process site plans, alternate design documentation, and building and related permits, unless and until said plans conflict with any future amendments of said ordinance.

8. No application to rezone property to any zoning district other than Planned Unit Development (PUD) shall be accepted or processed by the City of Des Moines, effective immediately upon the adoption of this resolution and through December 14, 2019 (after a term of 97 days), unless this moratorium is repealed or extended by further action of the City Council. Any party may by written application to the City Clerk request relief from the effect of this moratorium where necessary to avoid unnecessary hardship, which application shall identify the basis for the applicant's contention that the moratorium is causing unnecessary hardship and which shall be considered by the City Council at the first regularly scheduled Council meeting more than ten days following the date that such application is filed with the City Clerk. If the City Council determines that the application of this moratorium is causing the applicant unnecessary hardship, the City Council shall allow such relief from this moratorium as is necessary to remedy such unnecessary hardship. Applications for rezoning to any applicable district may be accepted and processed under the new Zoning Ordinance on December 15, 2019.

MOVED by Gatto to adopt; refer to the City Manager to work on these additional amendments for consideration before the end of the year: 1. New Zoning District, to more closely match existing R1-80 and R1-90 districts. 2. Establish criteria for Type 1 Design Alternatives. 3. Short-term rental regulations. 4. Expand areas where Accessory Household units are allowed. 5. Quality of vinyl siding. 6. Vinyl requirements for 3 to 12 unit Multi-Family buildings.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

CERTIFICATE

I, DIANE RAUH, 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.

J. M. Frankin Cownie Mayor

Diane Rauh City Clerk