



Roll Call Number

Agenda Item Number

48

Date January 12, 2015

RESOLUTION HOLDING HEARING ON PROPOSED AMENDMENTS TO THE ZONING ORDINANCE REGARDING REMEDIAL MEASURES RELATING TO PUD AND PBP DEVELOPMENT PLANS

WHEREAS, on December 22, 2014, by Roll Call No. 14-1933, the City Council received a communication from the City Plan and Zoning Commission stating that its members voted 11-0 in support of a motion to recommend APPROVAL of proposed amendments to Section 134-708 and Section 134-741(15) of the Zoning Ordinance of the Des Moines Municipal Code to clarify remedial measures in response to failure to submit a PUD or PBP Development Plan or to commence construction in accordance with a time schedule set forth in a PUD or PBP Development Plan, as proposed by City staff; and

WHEREAS, said amendments are proposed in order to more accurately reflect the City's historical and current practices for administration of PUD and PBP Development Plans in the Zoning Ordinance; and

WHEREAS, on December 22, 2014, by Roll Call No. 14-1933, it was duly resolved by the City Council that the proposed amendments to Section 134-708 and Section 134-741(15) be set down for public hearing on January 12, 2015, at 5:00 p.m. in the City 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 amendments to the Zoning Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon consideration of the facts, statements of interested persons and arguments of counsel, any and all objections to said proposed amendments to the Zoning Ordinance be and the same are hereby overruled, and the hearing closed.

MOVED by _____ to adopt and approve the proposed amendments to Section 134-708 and Section 134-741(15) of the Zoning Ordinance of the Des Moines Municipal Code, subject to final passage of the enacting ordinance.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank Assistant City Attorney

10-2014-5.05

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

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.

Mayor

City Clerk

Sec. 134-708. Failure to submit development plan or to commence construction.

If the developer fails either (i) to submit a development plan within the time requirements of section 134-696 of this division or (ii) to commence construction in accordance with the time schedule set forth in the development plan, a public hearing ~~shall~~ may be scheduled before the plan and zoning commission regarding such failure, and the developer shall be served prior notice thereof by certified mail. At such ~~meeting~~ hearing the commission shall consider all circumstances relevant to the developer's failure and ~~shall~~ may vote to recommend to the city council that appropriate remedial measures be initiated, which measures may include (i) the initiation of rezoning of the subject property to the zoning classification effective immediately prior to the rezoning of the subject property to a PUD district classification, and/or (ii) referral of the matter to the legal department for institution of enforcement proceedings in the courts pursuant to sections 134-31 and 134-32. Upon receipt of the recommendations of the commission, the city council ~~shall~~ may act to initiate remedial measures in conformity to the commission's recommendations or to initiate such other remedial measures as the council determines to be reasonably necessary under the circumstances.

(O.10,726, 10,843, 10,927, 11,577, 11,833, 12,067, 13,015, 13,081; C91, § 2A-14.01(Q); C00, §134-708, O.15,---)

Sec. 134-741. Commission review and council approval of rezoning, conceptual and development plans.

Applications for rezoning and conceptual plans for the PBP planned business park district shall require review by the commission and approval by the council for compliance with this division prior to the issuance of a building permit. The following procedures shall be followed:

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- (15) *Failure to submit development plan or to commence construction; remedial measures.* If the developer fails either (i) to submit a development plan within the time requirements of subsection (5) of this section or (ii) to commence construction in accordance with the time schedule set forth in the development plan, a public hearing ~~shall~~ may be scheduled before the plan and zoning commission regarding such failure, and the developer shall be served prior notice thereof by certified mail. At such ~~meeting~~ hearing the commission shall consider all circumstances relevant to the developer's failure and ~~shall~~ may vote to recommend to the city council that appropriate remedial measures be initiated, which measures may include (i) the initiation of rezoning of the subject property to the zoning classification effective immediately prior to the rezoning of the subject property to a PBP district classification, and/or (ii) referral of the matter to the legal department for institution of enforcement proceedings in the courts pursuant to sections 134-31 and 134-32 of this chapter. Upon receipt of the recommendations of the commission, the city council ~~shall~~ may act to initiate remedial measures in conformity to the commission's recommendations or to initiate such other remedial measures as the council determines to be reasonably necessary under the circumstances.

(O.11,325, 11,539, 11,832, 13,486; C91, § 2A-14.02(E); C00, §134-741; O.15,---)



December 12, 2014

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held December 4, 2014 the following action was taken regarding the Zoning text amendment to Section 134-708 and Section 134-741(15) to clarify remedial measures in response to failure to submit a PUD or PBP Development Plan or to commence construction in accordance with a time schedule set forth in a PUD or PBP Development Plan.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Dann Flaherty	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier				X

APPROVAL of the proposed zoning text amendment. (10-2014-5.05)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed zoning text amendment.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed text amendment to Section 134-708 and 134-741(15) of the City Code is attached. The amendment clarifies City Code to match the City's historical and current practices for administration of the zoning code.

The proposed text was not reviewed by the Regulation and Ordinance Subcommittee of the Plan and Zoning Commission as it was deemed to be minor in nature (i.e. changing mandatory word "shall" to permissive word "may") and it matches historical and current practice by the City. Staff is unaware of any Planned Unit Development (PUD) or Planned Business Park (PBP) that was voided by the City for a failure to finalize a development plan or to commence construction. However, the proposed text still preserves the City's right and discretion to void a PUD or PBP in the future.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Mike Simonson moved staff recommendation for approval of the proposed zoning text amendment.

Motion passed 11-0.

Respectfully submitted,



Jason Van Essen, AICP
Senior City Planner

JMV:clw

cc: File

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