



Roll Call Number

Agenda Item Number

48A

Date February 21, 2022

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING PROPOSED AMENDMENT TO DES MOINES MUNICIPAL CODE SECTIONS 135-2.21.2, 135-9.2.1 AND 135-9.2.3, AND ADDING NEW SECTION 135-8.2.4, RELATING TO UNDERGROUND PLACEMENT OF UTILITY TRANSMISSION SYSTEMS AND RELATED SITE PLAN DESIGN ALTERNATIVES, AND SITE PLAN CRITERIA RELATING TO STORMWATER MANAGEMENT

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan; and

WHEREAS, at a public hearing held on February 3, 2022, the City Plan and Zoning Commission voted 11-0 in support of a motion to recommend **APPROVAL** of a determination that the proposed amendment to Des Moines Municipal Code Sections 135-2.21.2, 135-9.2.1 and 135-9.2.3, and adding new Section 135-8.2.4, in form on file in the office of the City Clerk and relating to underground placement of utility transmission systems and related site plan design alternatives, and site plan criteria relating to stormwater management, is in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan for the reasons set forth in the attached communication.

MOVED by _____, and seconded by _____, to receive and file the attached communication from the Plan and Zoning Commission.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

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

CERTIFICATE

I, P. Kay Cmelik, 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.

_____ City Clerk



February 8, 2022

Communication from the City Plan and Zoning Commission advising that at their February 3, 2022 meeting, the following action was taken regarding a determination as to whether the proposed amendments to Des Moines Municipal Code Sections 135-2.21.2, 135-8.2, 135-9.2.1, & 135-9.2.3, relating to underground placement of utility transmission systems and related site plan design alternatives, and site plan criteria relating to stormwater management, is in conformance with the PlanDSM: Creating Our Tomorrow comprehensive plan.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed				X
Todd Garner	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
William Page				X
Andrew Lorentzen	X			
Greg Wattier				X
Emily Webb	X			

APPROVAL of the proposed amendments to Des Moines Municipal Code Sections 135-2.21.2, 135-8.2, 135-9.2.1, & 135-9.2.3, relating to underground placement of utility transmission systems and associated site plan design alternatives and site plan criteria relating to stormwater management. (ZONG-2022-000009)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed amendments to Des Moines Municipal Code Sections 135-2.21.2, 135-8.2, 135-9.2.1, & 135-9.2.3, relating to underground placement

of utility transmission systems and associated site plan design alternatives and site plan criteria relating to stormwater management.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed amendments would revise sections of the Municipal Code that address stormwater management and underground utility requirements. The stormwater amendments are intended to make the language in Sections 135-9.2.1.A and 135-9.2.1.J consistent with other language in the Municipal Code. The remaining amendments clarify the undergrounding of utilities requirements and provide for a Type 1 Design Alternative. The proposed amendments are contained in a summary document provided with this staff report.

Relief to the undergrounding of utility requirement currently requires a Type 2 Design Alternative that can only be granted by the Plan and Zoning Commission. The proposed amendment would allow staff to consider some of the underground utility waiver requests if the proposal meets certain criteria. The proposed criteria are modeled on the factors the Commission has routinely based their decisions on. The proposed criteria are contained in the summary document provided with this staff report.

In 2021, the Commission heard 32 requests for waiver of this requirement, with 40% of these items being on the consent agenda. The proposed amendment would allow for a more efficient development review process based on the precedents set by the Commission's previous actions. Staff believes that the proposed amendments comply with the goals of the PlanDSM: Creating Our Tomorrow comprehensive plan. See section II of this report for additional information on PlanDSM.

A copy of the proposed text changes is included in the Commission's packet. The following are summaries of the changes to each section of the code.

Section 135-2.21 Mobile Home Parks:

- Section 135-2.21.2 "Layout Requirements". Existing text "Underground electric and telephone lines" changed to "Underground utility lines".
- Section 135-2.21.2.K "Underground utility lines". Existing text "All electric lines and telephone lines shall be buried underground" changed to "All electric lines, telephone lines, and similar utility transmissions systems shall be buried underground whenever reasonably practicable".

Section 135-8.2 Site Planning Standards:

- Section 135-8.2.4 "Underground Placement of Utility Transmission Systems". Subsection text added "All electrical, telephone, cable television, and similar utility transmission systems included in a site plan or alternate design documentation shall be placed underground whenever reasonably practicable".

Section 135-9.2.1 General Site Design Principles:

- Section 135-9.2.1.A. Existing text “runoff control” changed to “management” and “section 106-136” changed to “chapter 42, article XI”.
- Section 135-9.2.1.E. Existing text deleted and replaced with “Number not used”.
- Section 135-9.2.1.J. Existing text “runoff control” changed to “management” and “section 106-136” changed to “chapter 42, article XI”.

Section 135-9.2.3 Type 1 Design Alternatives:

- Section 135-9.2.3.B.15. Existing text “Any other design alternatives identified in this chapter as a Type 1 design alternative” replaced with subsections 15.a., 15.b., and 15.c.i – 15.c.iv providing criteria for waiver of undergrounding utility lines whenever reasonably practicable.
- Section 135-9.2.3.B.16. Added “Any other design alternatives identified in this chapter as a Type 1 design alternative”.

II. PLANDSM: CREATING OUR TOMORROW COMPREHENSIVE PLAN

PlanDSM: Creating Our Tomorrow is the City’s Comprehensive Plan. The proposed amendments to Chapter 135 (Planning and Design Ordinance) are 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.

LU2: Develop regulations sensitive to adjoining development and potential development to promote unique land use objectives including neighborhood centers and transit-oriented development (TOD).

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.

LU4: Integrate development with the natural environment through green building and site planning practices.

LU5: Develop regulations to reduce blight and visual clutter including, but not limited to, signage, overhead power lines, telecommunications equipment, and other utilities. Regulations will be consistent with federal and state code and case law.

Land Use Goal 8

Recognize the value of ecologically sensitive land and natural resources and ensure preservation of these areas for future residents and urban vitality.

LU43: Regulate development in flood prone areas to protect from damage to public health, safety, and property.

Economic Development Goal 2

Focus economic development efforts in strategic locations for continued vitality and growth.

ED6: Support revitalization of obsolete commercial locations and identify alternative land use and adaptive reuses for commercial properties that are both functionally and locationally obsolete.

Economic Development Goal 4

Foster a sustainable economy.

ED17: Encourage businesses that diversify the economy; use locally produced materials and market their products locally; practice energy efficiency, provide a living wage; utilize green building practices; employ exemplary storm water management practices; and/or utilize sustainable transportation and distribution systems.

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

Public Infrastructure and Utilities Goal 1

Provide safe and reliable public infrastructure and utilities for current residents as well as future development needs.

PIU6: Work with utility companies to continue the burial and consolidation of overhead utility lines during street improvement projects, along new streets, and redevelopment proposals.

Public Infrastructure and Utilities Goal 6

Ensure clean, safe water resources are equitably available to all current and future residents.

PIU34: Protect and improve the water quality of the city's rivers, creeks, lakes, and aquifers for the use and support of aquatic life and resident enjoyment.

PIU35: Minimize sources of water pollutants in urban runoff through stormwater retention, on-site water treatment technologies including green infrastructure, and the implementation of pollution prevention programs.

PIU36: Enhance the protection of creeks and floodplains to preserve environmentally sensitive areas and improve the quality of water.

Community Character and Neighborhood Goal 3

Promote the redevelopment and revitalization of neighborhood nodes and corridors

CCN17: Encourage commercial development that meets the service, retail, and entertainment needs of area residents.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Chris Draper asked what the designation between project and construction budget is.

Jason Van Essen stated estimated budget is part of the practice staff uses within Chapter 135. Staff relies on permit value in most cases but there are times when staff needs flexibility to use other information such as a bid from a contractor.

Chris Draper asked for the definition of negatively.

Jason Van Essen stated based on cases that have come before the commission, that would include financial impacts to neighboring properties or impact to their services.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Chris Draper read the following statement:

While PlanDSM Comprehensive Plan has multiple statements of Visions, Goals and Plans or Policies, It does not highlight the strategic link between the Plans or Policies and the Goals or Visions that are intended to achieve. Our ability to evaluate the appropriateness of a plan as is being requested here is fundamentally tethered to our ability to understand the strategy within which we expect that plan to move us closer to achieving our Goals and Visions. While I am incredibly happy that we now have clear guidance on how to evaluate utility undergrounding, what's being proposed here does make me wonder if we believe this guidance will allow us to meet the objectives of PlanDSM, what is the strategy we are pursuing that allows us to believe that there is a connection between this guidance and a reasonable expectation that the goals in the plan will be achieved. In the case of utilities, the need for a consistent strategy as we evaluate these proposals seems heightened by today's announcement of the West Des Moines settlement with Mediacom over the broadband conduit - right now we have been focused on power, but the focus on broadband, Verizon's extensive fiber work, the reality of Mediacom's investment struggles means we are going to be clear in what strategies we are pursuing to thread all of those needles at once. An alternative example of this need, on a November 29th meeting regarding following up on my comments questioning the use of Tax Increment Financing

as the primary tool for driving success in the Douglas Avenue Urban Renewal Plan, it was made clear that:

1. We have never completed, nor do we have sufficient staff time or resources to complete, an evaluation of whether TIF produces a meaningful return on its investment,
2. We do not have an articulable development strategy for whether, when, or how we should deploy tools like TIF, and
3. No progress can be made on improving our understanding of TIF and its role within our strategy - whether it be commissioning an academic study of past performance or forming a sub-committee to summarize the strategy staff is currently following - without direction from City Council through the City Manager.

As we start throwing TIF, utilities, urban farming, broadband all into the mix for appropriate land use and project planning - no request that requires our evaluation can be assured protection from arbitrariness if we do not understand the strategies being employed by City Staff. I am very conscious of the fact that burdening staff with another task in the face of limited time, budget, and community stability is not reasonable. While the current strategies guiding staff actions have not been summarized - or are likely to be changing on an annual or semi-annual basis - I am confident that strategies likely exist and can be communicated if someone has the time to work with staff to document them. Given how vital it is to understand the strategy behind Staff requests when P&Z members are attempting to evaluate the appropriateness of proposals in a manner that is not arbitrary, creating succinct statements of strategy would be immensely valuable.

To help the commission produce such a necessary guidance document without spending valuable staff time or investing in outside consultant cost, I would like to make the following motion:

Chris Draper suggested the following motion:

1: Form a P&Z sub-committee charged with creating an executive summary document that:

- A) Gathers input from City staff on what strategies are being pursued in order to achieve the objectives, and
- B) Succinctly summarize the development strategies being pursued by the City.

2: Draft a letter to City Council requesting City Council direct the City Manager to:

- A) Instruct staff to work with the P&Z sub-committee in the development of the referenced executive summary document,
- B) Allow the sub-committee to be responsible for initiating and overseeing research partnerships that evaluate the effectiveness of tools vital to any stated strategy, and
- C) Require the sub-committee to be responsible for hosting listening sessions where public comments could be provided, summarized, and then presented through a P&Z meeting.

Jason Van Essen asked Chris if he's looking for analysis around how the goals of PlanDSM have been or will be achieved.

Chris Draper stated he is asking for a sub-committee made up of 3-5 commissioners to draft a document that would highlight strategy's the city's Development Services Department is using to achieve the vision of PlanDSM.

Glenna Frank stated 90% of the ordinance in front of the commission tonight was discussed in concept with the City Council, which has approved those concepts and asked staff to draft up those concepts in ordinance form.

Johnny Alcivar asked if a sub-committee could be formed as it was for sidewalks.

Jason Van Essen stated the commission can form a sub-committee. The sidewalk issue was very specific, and staff felt it could be worked out with a few meetings of the sub-committee. When it starts to become this abstract, we wouldn't know how long it will take, where it will lead and the potential resources that would be needed.

Emily Webb asked if a motion is needed to form a sub-committee.

Glenna Frank stated she wasn't able to answer that question and would need to do some research around that request. The sidewalk sub-committee met once or twice with final direction coming from the City Manager rather than the sub-committee.

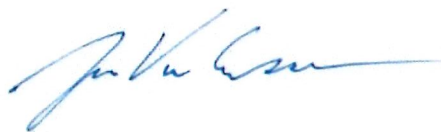
Jason Van Essen stated the by-laws give the chair the ability to create and appoint members to committees to investigate, discuss and make recommendation to the commission.

COMMISSION ACTION:

Chris Draper made a motion for approval of the proposed amendments to Des Moines Municipal Code Sections 135-2.21.2, 135-8.2, 135-9.2.1, & 135-9.2.3, relating to underground placement of utility transmission systems and associated site plan design alternatives and site plan criteria relating to stormwater management.

Motion passed: 11-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh