

Direction: CITY1615.DSS

Chairperson Erickson called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, July 18, 2016, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Costa, Crowley, Erickson, Hatfield.....Present  
Andersen, Brown, Southworth .....Absent

**Item 1 - Consent Agenda**

**Item 1a - Minutes of the meeting of July 5, 2016**

Chairperson Erickson asked for any comments or modifications to the July 5, 2016 minutes.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission approved the July 5, 2016 meeting minutes.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent

Motion carried.

Chairperson Erickson stated that Staff has requested that the New Business items be addressed before the Public Hearing items.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield that New Business items 4a and 4b be addressed first.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent

Motion carried.

**Item 4 – New Business**

**Item 4-a - Westport, 33346 V Court - Approval to grade site for future residential development – Westport Development, LLC – GP-003152-2016**

Doug Saltgaver, Engineering Resource Group, Inc., 2413 Grand Avenue, Des Moines, representing the applicant, requested grading plan approval for the site located at 33346 V Court in preparation for a future single family subdivision. He stated that approval would allow the applicant to take advantage of the construction season.

Mr. Saltgaver expressed agreement with all staff recommendations and conditions of approval.

Planner Portz provided no additional comment.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, asked for continued discussion or a motion.

Moved by Commissioner Costa, seconded by Commissioner Crowley, the Plan and Zoning Commission adopt a resolution approving the Westport grading plan, subject to the applicant meeting all City Code requirements and the following:

1. The applicant acknowledging that no grading shall occur on the property until all grading plan comments have been addressed to the satisfaction of the City and once addressed, the plans stamped as “Approved” by the City.
2. The applicant acknowledging and agreeing that any work done prior to approval of the associated Westport preliminary plat is at the applicant’s own risk, and that the final site grades will need to comply with any changes that are deemed necessary as part of those approvals.
3. The applicant submitting the National Pollutant Discharge Elimination System (NPDES) General Permit No. 2 from the Iowa Department of Natural Resources for this project prior to any grading on the property.
4. The applicant installing and maintaining all necessary soil erosion measures and establishing the appropriate cover crop to aid in erosion prevention and mitigate soil runoff.
5. The applicant properly mowing and maintaining the cover crop to prevent weed growth and the establishment of volunteer trees and brush.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
 Andersen, Brown, Southworth.....Absent  
 Motion carried.

**Item 4-b - Des Moines Golf and Country Club Phase 4, 1600 Jordan Creek Parkway – renovate nine golf tees, bunkers, greens, and trails – Des Moines Golf and Country Club – GP-003112-2016**

Bob Veenstra Jr., Veenstra and Kimm Inc., 3000 Westown Parkway, representing the applicant, requested grading plan approval for the fourth renovation phase of the golf course in anticipation of next year’s Solheim Cup golf tournament.

Mr. Veenstra expressed agreement with staff recommendations and conditions of approval.

Planner Tragesser provided no additional comment, but recommended approval.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission adopt a resolution approving the grading plan, subject to the applicant meeting all City Code requirements and the following:

1. Providing a public sanitary sewer easement for the manhole impacted by this project, prior to commencing construction.
2. Providing final grading plan documents addressing remaining staff comments, prior to commencing grading.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
 Andersen, Brown, Southworth.....Absent  
 Motion carried.

**Item 2 – Public Hearings**

**2a - Ordinance Amendment – Amend Title 3 (Business and Licensing), Chapter 7 (Solicitors and Transient Merchants) and Title 9 (Zoning), Chapter 16 (Temporary Use Permits) – to modify temporary use and transient merchant regulations and establish new regulations related to mobile vendors – City Initiated – AO-003135-2016**

Chairperson Erickson opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published in the Des Moines Register on July 8, 2016.

Chairperson Erickson asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent  
Motion carried.

Sign and Zoning Administrator Kevin Wilde stated that he has the responsibility for reviewing all the temporary use permits. Currently, requests for these types of permits are handled through the Temporary Use Permit process and encompass the short-term temporary use which is four, four-day events in a calendar year and long-term food and beverage permits which allows businesses to operate from May 1 through September 30.

Mr. Wilde continued that the City has been inundated with requests for food trucks. Some food trucks have obtained long-term temporary permits for one location. Other food truck vendors have been allowed by having a business owner obtain the permit. The owner option allows a different truck at different times with different offerings, but still would be limited to one truck at a time. Staff has suggested licensing the truck and allowing them to park anywhere in a non-residential zone while obtaining property owner approval. Standards are included within the proposed ordinance that they would need to comply with. One of the key identified standards was time limits if the use was within 300 feet of a residential area. If located beyond the 300 feet, it would be considered a commercial use and treated like a commercial business with no time limitations. Another issue that has surfaced is the desire to allow multiple food trucks at a single location which could potentially change the dynamics of the site. Mr. Wilde stated that he has struggled with how to address fire and police safety concerns with multiple food vendors on one site without a review process.

Mr. Wilde stated that staff was requesting direction on a proposed fee structure which has been discussed from having no fee to \$500 and up. He stated that after some investigation and research, he found that other cities have charged fees from \$50 to \$1,000 per year. The City is trying to respond to concerns, administrative costs, and enforcement issues to determine a license fee. Currently, the long-term use permit is \$280, plus a \$750 deposit which is returned at the end of the year. Since the food truck would not be tied to a property, the City would not request a deposit for food trucks. Mr. Wilde stated that it may be more appropriate for the Commission to defer the fee question so that this item could be sent to City Council for decision.

Chairperson Erickson asked if fee structures are required to be representative of the City’s true cost for administration. Mr. Wilde stated that there should be some relationship or justification to the administrative costs, but he was not sure how to quantify what that would be at this time.

Commissioner Costa asked what a restaurant would pay in fees. Mr. Wilde stated that West Des Moines does not have any business licensing requirement so there would be no local licensing fee for a brick and mortar restaurant.

Commissioner Hatfield asked how this proposed ordinance compared with that of Des Moines’ ordinance. Mr. Wilde provided that Des Moines had a pilot ordinance in which a downtown district was

created which allowed food trucks to park on public streets. This pilot program evolved and has now been adopted. Des Moines has also been revamping some of the rules. Their big issue has been time frames and trying to limit hours of operation. Des Moines has implemented more restrictive time frames from that which West Des Moines has proposed. On private property, Des Moines requires the truck to be licensed, have the unit approved through a fire inspection, and also charge the property owner to take out a permit.

Mr. Wilde continued that the City of West Des Moines will not have restroom regulations, unlike Des Moines that has made it a requirement for the business or property owner to have restrooms available when food trucks are open for business. Thus, if the business was not open, the food truck would also have to close.

Commissioner Hatfield commented that Regency has 2-3 trucks available at their location and wondered how this has been regulated in the past. Mr. Wilde informed the committee that he has been out to this location several times, but has never observed the food trucks in operation. Thus, Regency has been operating without the legal right to do so. Under the current ordinance, one food truck would be allowed on a lot with a long-term temporary use permit, which is the only way currently to legally accommodate one food truck. There could be multiple food trucks on the site with a short-term temporary use permit, but that activity would be limited to four, 4-day events per year. Under the new short-term permit regulation, eight, 2-day events could apply in this situation. With the proposed ordinance, Regency has four parcels that come together, and they could have one truck per parcel with a 50 foot separation, so they could potentially have four trucks in close proximity while abiding by the one truck per property. Currently, the proposed ordinance does not allow a cluster of trucks on a single site, except through a short-term temporary use permit on private property or special event permit on public property.

Chairperson Erickson asked about the eight, 2-day events for multiple food trucks. Mr. Wilde stated that using the single food truck as an example, if the food truck was in a private parking lot every week, and as long as the truck was licensed and the property owner was in agreement, this could take place throughout the year. The temporary use applies to uses like concerts, sidewalk and parking lot sales, etc. and include all the activities that were not part of the approved site plan. A food truck event with multiple food trucks could fall under this category. Allowing multiple food trucks on potentially a daily basis without some type of review process could have significant impacts on the parking and other dynamics of the site, and it would also be difficult to determine the intent of the activities. With a temporary use permit process, the circulations, emergency access, fire exiting, parking, and other site specific issues could be reviewed on a case-by-case basis.

Commissioner Hatfield asked if there were any statistics available regarding the number of employees in an office park that would take advantage of food trucks. Mr. Wilde stated that he had not found any such statistics.

Commissioner Costa stated that his interest would be to consider a way to monitor safety concerns. He expressed interest in putting the onus on the property owner to ensure safety, i.e., not allowing parking beyond the capacity of the parking lot. Mr. Wilde stated that policing food truck activities would be a challenge. Commissioner Costa stated that he would support having food trucks if safety and/or traffic problems were taken into consideration, and there were less restrictions rather than more. Commissioner Hatfield was in agreement. He continued that food trucks should be open for business, and he was also in favor of allowing multiple food trucks so that there could be a variety of offerings. Commissioner Hatfield also commented that in reality people pick up food and leave the area over the lunch hour; thus, parking would not be impacted. Mr. Wilde interjected that allowing multiple food trucks on a site would take more staff evaluation and suggested sending that message forward, but not delaying the proposed regulations while we evaluate a process for multiple trucks on one site.

Commissioner Hatfield stated that he did not understand the need for a 100 foot separation from a restaurant. Mr. Wilde stated that this restriction was there to protect the brick and mortar restaurant since restaurants pay property taxes and the food trucks do not. In some cases, the restaurant operates the food truck and therefore they would not have to meet the separation regulation, but the proposed provision states that a restaurant could sign off to allow a food truck within the 100 foot spacing.

Chairperson Erickson asked if anyone from the audience would like to speak to this item.

Brian Fox, Fox Brewing, 305 3<sup>rd</sup> Street, West Des Moines, thanked the Commission for addressing these issues as they are important to his business, as well as to others. He encouraged the City to keep the fees low. Right now, the fee is on the property owner, and he has had to pay a \$750 deposit and a \$280 fee to allow food trucks to come to his business. Any additional fee added would make it harder to allow food trucks into West Des Moines. While food truck activity will slow down in January, Mr. Fox stated that he would not want the ability eliminated because of the seasonal nature of Tropical Snow. Sometimes there are good days in winter months and year round availability would be beneficial to his business.

Chairperson Erickson asked about the seasonality of the proposed ordinance. Mr. Wilde stated that the long-term permit was expanded by two months for Tropical Snow type businesses. With food trucks being mobile, and other than restricting their daily hours of operation to five hours, they would be allowed year round. The City Council expressed that they did not want trucks parked on the site for long durations.

Steve Freeman, Twisted Vine Brewery, 3320 Westown Parkway, stated that he would like to have the seasonal restriction removed so that food trucks would be available year round to his customers.

Mr. Fox stated that he did not realize there was a five-hour limit for food trucks. He asked that the hours be extended to encompass both lunch and dinner as it would be difficult to schedule two food trucks to accommodate both.

Jim Miller, Director Historic Valley Junction Foundation, 137 5<sup>th</sup> Street, provided a picture of a push cart stating that a couple had requested that a push cart be allowed in Valley Junction in a public walkway. He was not sure if this would be allowed on public property. He explained that the cart was pedaled like a bicycle, had wifi, and was solar powered. Mr. Miller continued that there have also been requests to allow trucks to locate in legal parking spots on 5<sup>th</sup> Street and begin selling from the truck, specifically between the Longest Yard and G. Migs.

Mr. Wilde responded that preliminary discussions with City Council indicated that they were not receptive to allowing trucks on public property for vending purposes. However, special event permits can be issued for any type of activity on public property, i.e., the Farmers Market.

Chairperson Erickson commented that opening the discussion regarding public right-of-way was beyond the scope of the Commission and that City Council should address this issue. He expressed that he did not want to hold up the process, and that this could be addressed separately.

Commission Crowley asked if Mr. Miller had talked with G. Migs about having food trucks in front of their location. Mr. Miller responded that G. Migs was not in favor of food trucks. He provided that every food truck had to pay a state fee of about \$35 per day when there was a festival. This is on top of other fees that the City would impose. Also, the State of Iowa charges all the food vendors a farmer's market fee which is \$200 a season.

Chairperson Erickson asked if anyone else from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Commissioner Costa stated that he was in favor of having this business open as long as possible and encouraged staff to act quickly. The Commissioners indicated that a single food truck on a large campus was not a reasonable solution, and they were not in favor of restricting vendors. Commissioner Hatfield also felt that five hours was too restrictive, but that a reasonable amount of time possibly 12 hours needed to be identified. He was in favor of allowing multiple food trucks especially on larger properties with property owners being more responsible for nuisance issues relative to safety and traffic. Mr. Wilde stated that 12 hours would overlap police and EMS shifts and enforcement would be difficult. He recommended eight hours as a more reasonable time limit for policing purposes.

Chairperson Erickson moved approval of the ordinance with suggested exceptions as noted in the recommendation to City Council.

Moved by Commissioner Erickson, seconded by Commissioner Crowley, the Plan and Zoning Commission approve a resolution recommending the City Council approve the ordinance amendment to define and establish regulations related to event venues with the following exceptions: (1) More than one truck be allowed; (2) the allowable time extended from five to eight hours; (3) consider having mechanisms in place that would put the onus of enforcement of traffic and safety issues on the property owner.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent

Motion carried.

**2b - Ordinance Amendment – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Section 2 (Definitions); Amend Title 9 (Zoning), Chapter 5 (Agriculture/open Space and Residential Zoning District), Section 8 (Open Space/Agricultural and Residential Use Regulations); and Amend Title 9 (Zoning), Chapter 10 (Performance Standards), Section 4 (Specific Use Regulations), to add regulations and performance standards pertaining to scoreboards as part of stadium and recreational facilities – City Initiated – AO-003136-2016**

Chairperson Erickson opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published in the Des Moines Register on July 8, 2016.

Chairperson Erickson stated that Shive Hattery, the company he works for, was involved in this issue, but that the work conducted was not related to the ordinance being presented. He wanted to make it clear that he believed that there would be no conflict of interest with his participation on this item.

Chairperson Erickson asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Hatfield, seconded by Commissioner Crowley, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent

Motion carried.

Director Twedt explained that this request was in response to the West Des Moines School District wanting to install a video board on the current Valley High School scoreboard. The structure would not change. Eight feet would be the actual scoreboard, but approximately 18 feet underneath the scoreboard

would be a section of video used for replays, highlights, and/or other events intermingled with sponsor advertising. Even though the scoreboard is intended entirely for use within the stadium, Staff has wrestled with determining if this was a sign or not. Staff has come to the conclusion that the scoreboard is not a sign as it is not for viewing by the general public but an amenity for the stadium, and that because there is such a dedicated audience, there should be a separate definition and regulation for scoreboards. A proposed definition has been added into Code which defines a scoreboard and ties it back to recreation and event type facilities for a specific audience. As a safety precaution, the Parks Department will be identifying extra landscaping to mitigate any view of the structure.

Chairperson Erickson asked if anyone from the audience would like to speak to this item and seeing none, closed the public hearing and asked for continued discussion or a motion.

Moved by Commissioner Hatfield, seconded by Commissioner Costa, the Plan and Zoning Commission approve a resolution recommending the City Council approval of the ordinance amendment.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent  
Motion carried.

**Item 3 – Old Business**

There were no Old Business items on the agenda.

**Item 5 – Staff Reports**

There were no staff reports.

**Item 6 - Adjournment**

Chairperson Erickson asked for a motion to adjourn the meeting.

Motion by Commissioner Crowley, seconded by Commissioner Costa, to adjourn the meeting.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes  
Andersen, Brown, Southworth.....Absent  
Motion carried.

The meeting adjourned at 6:22 p.m.

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Craig Erickson, Chairman

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Kimberly Taylor, Recording Secretary