

**CITY OF WEST DES MOINES
DEVELOPMENT AND PLANNING
CITY COUNCIL SUBCOMMITTEE MEETING
Zoom Electronic Meeting and City Council Chambers at City Hall**

Monday, 09-21-2020

Attending:

Council Member Matt McKinney
Council Member Renee Hardman
City Manager Tom Hadden
Deputy City Manager Jamie Letzring
Development Director Lynne Twedt
Development Coordinator Linda Schemmel
Building Official Rod Van Genderen
City Attorney Richard Scieszinski
Assistant City Attorney Jessica Spoden

Public Works Deputy Director Joe Cory
Principal Engineer Ben McAlister
Assistant City Attorney Jessica Spoden
Fire Marshal Mike Whitsell
Planner Karen Marren
Planner Bryce Johnson
Planner Kara Tragesser
Planner Brian Portz

Guests:

Item #1 –

Fire/EMS Chief Craig Leu
Sgt. Ryan Andersen, Animal Control WDMPD
Brian and Cortney Fox, 208 Hillside Ave
Kelsey Seay, 212 Hillside Ave
Sabrina Ravello, 205 Hillside Ave
Julia McGuire
Carrie DeVries
Additional unidentified caller

Guests:

Item #3 –

Parks & Recreation Director Sally Ortgies

Guests for All Items:

Kathy Bolten, Business Register
City Engineer Brian Hemesath

The meeting of the Development and Planning City Council Subcommittee was called to order at 8:01 AM.

1. Allowance of Backyard Chickens

City Manager Tom Hadden summarized a table noting which metro areas allow chickens and the criteria applied in those areas. He noted a list of concerns by West Des Moines City staff including Bird Flu, lack of resources to support compliance, nuisances created, disposal of animals and the potential for additional requests for other livestock.

Also provided was a proposal of criteria which would be considered if City code is revised to allow chickens in more residential areas of West Des Moines. Mr. Hadden asked Development Services Coordinator Schemmel to explain where chickens are currently allowed within the City. Ms. Schemmel provided that chickens are a permitted use allowed in Open Space and permitted conditionally with Board of Adjustment approval in the Residential Estate district, which are typically 40,000 square foot lots or larger.

Mr. Hadden concluded that based on research, it is Staff's recommendation to stay with the current allowances and not allow chickens in smaller lot areas, however Council can choose to go a different direction if they prefer.

Council Member Hardman questioned which criteria proposed are currently required now with the areas which do allow chickens. Ms. Schemmel listed the criteria, stating the ordinance currently addresses chicken housing, and distinguishes between commercial chicken producers and residential. If chickens are allowed in all residential zoning areas, there would be more restrictions. Director Twedt noted that the setback requirements would need to be modified for

Valley Junction due to the smaller lot sizes, possibly measuring from an adjoining dwelling structure, not the property line.

Council Member Hardman asked whether an educational class is currently available. Ms. Schemmel stated there are several options available now.

Council Member Hardman asked for the extent of the neighbor signup requirement, commenting that she wasn't comfortable with a neighbor being able to prohibit a resident from having chickens for personal reasons not pertaining to chickens. Ms. Schemmel echoed her concerns and noted that additional discussion is warranted and if the lots are smaller, it might be best to have two neighbors approve as there might be impact.

Sergeant Ryan Anderson, West Des Moines Police Department over Animal Control, provided a recent example of staff time consumed chasing chickens. He noted issues caused by dealing with loose animals, and limited resources including capture, temporarily housing, and feeding a wide variety of animals.

Director Twedt clarified the difference between livestock and pets, in response to questions from Council Member Hardman.

Council Member McKinney asked what other animals Animal Control deals with and what times are needed to capture. Sgt. Anderson stated they primarily work with cats and dogs; they tend to be easier to catch, and traps can be used for feral cats or raccoons and other wild animals. Council Member McKinney asked what they do with livestock that is captured. Sgt. Anderson replied that becomes an issue for Furry Friends, which is primarily set up for cats and dogs, and is problematic to resolve. He noted a resident with 90 plus pigeons and expressed concern with staff telling a resident that they can have a chicken, but not pigeons.

Council Member Hardman asked if that resident was in the process of removing the 90 pigeons. Staff confirmed he is. Council Member Hardman asked what pigeons has to do with chickens. Sgt. Anderson stated residents will raise requests for other animals leading to distinguishing between having chickens, pigeons, ducks or quail or other types of fowl and livestock.

Council Member Hardman asked what other metro areas are doing if they do allow chickens. Director Twedt some of those metro areas list in their code which other types of animals are allowed and others are silent on the matter and likely dealing with when specifically asked.

Council Member Hardman asked about the restriction for roosters. CMO Hadden responded that roosters are noisy. Sgt. Anderson noted that hens can be noisy, and questioned whether the noise ordinance would have to be modified to address.

Council Member McKinney asked about whether the resources are available to implement these changes to the ordinance. Sgt. Anderson said they would talk to Furry Friends about what type of support they could provide, and also patrol officers would require additional training for capture and transport. Council Member Hardman asked how many animal control officers are currently on staff. Sgt. Anderson responded four FT officers, and he is the supervisor. He mentioned the training officers have received previously and noted they would need to explore additional training. Council Member Hardman noted that a conversation should be had with Furry Friends regarding what they would need to equip them to deal with chickens, even before the ordinance is written.

Council Member McKinney questioned the response if residents were to say they want to keep a cow for fresh milk. He asked what the difference is between a resident wanting to keep chickens for fresh eggs, or a resident wanting a cow for fresh milk. Sgt. Anderson responded that this is Staff's concern, where to draw the line.

Council Member Hardman stated that she felt a cow was a different issue, it's a large farm animal. Council Member McKinney asked how to draw the line, and Council Member Hardman stated

that it would just be stated chickens are allowed and cows are not. She noted that she would like to find a way to make this happen.

CMO Hadden stated that Staff didn't feel they could make it happen without leading to other request for 'livestock pets'. Sgt. Anderson stated we need to look ahead to how do we meet the compliance issue if having chickens were to become popular, do we add more officers? Council Member Hardman stated that those numbers could be tracked and addressed at budget time. She added that she doesn't want that to be a prohibitive concern. When WDM added an entertainment area, officers were added to support the growth as needed.

Ms. Schemmel stated that the ordinance currently allows all livestock, including cows. She noted that if we get specific about chickens, others will ask for additional types of birds and other animals.

Asst. Attorney Jessica Spoden inserted that it would be helpful to write the language to not list chickens as pets, but to differentiate chickens as they produce eggs. She noted that there will be an issue for residents who prefer to breed birds, and minimum lot sizes will be a factor. Ms. Spoden stated there will be more pushback if the approach is from allowing as pets rather than livestock.

Deputy CMO Letzring stated that another important factor to include when drafting the ordinance language is that chickens don't lay eggs for their whole lifetime, so the question becomes what to do with non-laying hens and what the disposal of animals would entail. After the resident has had a hen for a length of time, there will be attachment similar to pets.

Asst. Attorney Spoden agreed, clarifying that calling the animals pets will present issues. Council Member Hardman questioned whether that was also the concern regarding additional livestock requests. Asst. Attorney Spoden recommended using the agricultural classification but exempting chickens as an allowed animal if that is the Council's desire but cautioned about the potential for requests for other animals. She distinguished that pigeons cannot produce a commodity, and that the resident with 90 pigeons was breeding them as a business and showing them at the State Fair. Director Twedt stated that if a pigeon doesn't fall under a livestock classification, where do we classify them – are they a hobby or a pet, or animals wild by nature?

Council Member McKinney asked for those residents present and online to present their comments.

Brian Fox, 208 Hillside Avenue, stated that he was present in support of chickens. He dismissed cows as a non-issue, as they require 2 acres for grazing, and chickens need 2 square feet. He asserted that no one is asking permission to have 90 birds in their backyard. He agreed with restricting roosters and stated restricting male pigeons might solve that problem as well. Mr. Fox noted that the proposed lot sizes would not allow chickens in Valley Junction, and that his neighbors have all expressed their support of him having chickens. He requested that Staff consider an exemption for smaller lots to avoid prohibiting chickens. He agreed with the education component as raising chickens is different from raising cats and dogs. Mr. Fox stating some people will likely want to get rid of hens' post egg-laying, however he did not feel it would be a large problem. Requiring annual permits and leg-banding could include fining of owners who dump chickens or aren't compliant. He concluded that officers could receive training to capture loose chickens. Mr. Fox pointed out that being surrounded by metro areas which do allow chickens will likely lead to stray chickens crossing boundaries, and that capture training could be useful.

Council Member McKinney thanked Mr. Fox for his comments and noted that he's very much in agreement with Council Member Hardman that cows and chickens are very different animals, and it's important to distinguish in an appropriate way that is not arbitrary, and can be equally applied across the City to all residents. Everybody has their own interests and things that keep them busy. Saying these are pets, it makes it difficult to draw a line. Making it more about

livestock and egg production clarifies between chickens and pigeons, but then makes it less clear between a pigeon and a non-laying chicken. He stated we are trying to be reasonable about treating people equally but be cognizant of the impact on Animal Control and neighbors. He noted that the impact of Bird Flu killing 65% of those infected was important while we are in the midst of a pandemic. Council Member McKinney concluded that it's not about being against it, it's about how you fairly draw the line.

Cortney Fox, 208 Hillside Avenue, commented that Bird Flu is spread through migratory waterfowl and the best way to prevent infection is through enclosing your birds, which is already a requirement. She stated that Bird Flu is a non-issue for backyard chickens, it affects large commercial operations where the birds are not contained in the same way.

Kelsey Seah, 212 Hillside Avenue, stated she recently moved to Valley Junction and had to get rid of the chickens she had in Des Moines which was frustrating as she hadn't known that would be required as she felt the areas are similar and very close together. She stated she continued to keep a five-year-old hen after it stopped laying eggs. Ms. Seah noted there is a strong community of chicken owners which provide resources such as farms and other owners will take birds if you want to get more egg-laying hens.

Sabrina Ravello, 205 Hillside Avenue, echoed the concern about the lot sizes, and that reducing the restriction down to 20 feet would be more accommodating. She stated that she would really like to have chickens on her property and that she's really sad we are still talking about this.

Ms. Schemmel noted that Julie McGuire shared in the chat box that beekeepers did not have any of the same restrictions other than distance requirements. Council Member McKinney asked if bees were considered bees as livestock. Ms. Schemmel stated bees are not considered a livestock animal, but by the definition of producing a commodity, they would meet the test of the definition. Ms. Twedt stated bees were separated out based on research at the time of their allowance and noted that code contains criteria to have them such as a water source and a fly barrier which forces the bees upward out of the yard rather than toward the neighbors. It allows the bees to leave and return to the hive and doesn't have the same impact on the neighbors as other animals such as chickens might.

Mr. Fox returned to the podium and suggested that in lieu of the lot size restriction there be a setback from 25 feet from a residential structure to provide more flexibility.

Kelsey Seah inserted that in response to the Animal Control concerns, she would like to see the data from other metro areas. In her previous neighborhood, several of her neighbors had chickens and there was not a problem with loose chickens.

Sgt. Anderson noted that West Des Moines had a history of complaints about chickens in the past and was not sure if there was an ordinance in the past which allowed chickens. Council Member Hardman asked Director Twedt if there was an ordinance in the past allowing chickens. Director Twedt stated annexed smaller lot properties with owners that had chickens were allowed to keep their birds, otherwise, during her time with the City it has been only in Open Space and Residential Estate lots.

Council Member McKinney noted that the current ordinance allows chickens, we are just considering amending it to allow more ownership. He stated discomfort with distinguishing between who should be allowed and who should not. He requested a discussion with Furry Friends, as well as discussion with nearby metro areas regarding their compliance issues. CMO Hadden stated he didn't feel that would be a big problem. He proposed a potential ordinance amendment to be drafted and take it to a vote to Council whether to allow chickens or not. Council Member McKinney asked whether the ordinance would call them pets or livestock. CMO Hadden stated Staff could come up with some language based on what was proposed today and bring to CC for decision. Council Member Hardman agreed, noting that we are never going to please everybody, and that some areas will be gray. She pointed out that some exceptions

would be needed for Valley Junction, and a conversation with Furry Friends should take place to determine their feedback. She stated the ordinance may not address every single nuance, but it should be voted up or down because it keeps coming up. Council Member Hardman stated that the City should accommodate people who like chickens for what they produce and be inclusive to allow for these types of activities to happen, with some reasonable restrictions. She stated that 90 pigeons would be excessive, but maybe it would be ok to allow four birds. She expressed a desire to have a decision and not kick the can down the road.

Council Member McKinney agreed, but commented that he's not comfortable voting on the ordinance as it is now written. He stated he would like a clear delineation with sound rationale for why we have it. CMO stated they would come forward with an ordinance just specifically for chickens. Council Member McKinney stated it would be good to see the actual ordinance and thanked the residents for their input. Council Member Hardman asked for a discussion with Furry Friends, CMO Hadden responded he would have that conversation.

Direction: Council Members were supportive of the ordinance being drafted with further review and supporting research.

2. Special (Zoning) Exception Ordinance

Assistant Attorney Spoden provided a summary of the zoning exception ordinance which has been drafted to allow for situations which do not meet variance requirements but have a low impact on surrounding areas. Ms. Spoden noted that Staff have contributed considerable time to drafting and defining what a practical difficulty would be. Zoning exceptions would be allowed only on existing single-family lots as this is the area historically proven to have greatest need. Proof of practical difficulty was spelled out. Examples were provided which would not fall under the zoning exception's classification. Variance criteria which was previously unclear has been clarified to match what state code requires.

Ms. Spoden asked if the Committee had questions about the language. Council Member McKinney responded that he approved the direction this was going and questioned neighbor approval. Ms. Spoden stated that they do want neighbor sign-off but did not want a neighbor who didn't like you to prevent the exception; the ordinance was written to include impact to neighbor rather than neighbor sign off. She noted that Director Twedt would address the S Deer Road example which had two setback issues.

Ms. Twedt inserted that there was one recent request which had neighbor approval and another request where the adjacent neighbor opposed due to potential drainage issues and minimizing view. Staff were concerned about giving neighbors control but preferred to have the Board evaluate neighbor impact. She stated that the zoning exception doesn't necessarily mean you can have whatever you want.

She continued by explaining the average front yard setback provision in code pertains to context of the area with your front yard being determined by your neighbors. The recent S Deer Road garage addition request is in that situation. The front yard setback changed when they were annexed into the City. The zoning exception amendment as written would deal with the increase in setback from pre-annexation to current code. However, it was felt since the average front yard setback provision is about context, it was not appropriate to include as a zoning exception as it can have an impact on your neighbor. Director Twedt stated that there are a few ways the City could go regarding the average front yard setback. (1) The City could remove the requirement and let residents build up in minimum front yard setback line required of the zoning district in which they reside but noted that it could change the context of the street and neighborhood. (2) The City could adjust the ordinance to except out the Residential Estate district which typically has larger and wider lots as the reduction in distance between the structure and street would be less noticeable and less of an impact. She did note that we do have some Residential Estate designated lots due to annexation that do not meet typical 40,000 sf or 100' frontage. (3) Could measure to adjacent structure, and have it only been applicable in situations in which the

structures are a certain distance apart. She noted that the average front yard setback regulation will need to be addressed before the resident on S Deer Road could obtain a zoning exception. Ms. Twedt indicated that Staff is looking for feedback as an August Subcommittee meeting, staff was directed to leave the provision as is.

Council Member McKinney asked for Staff's recommendation. Director Twedt's recommendation was Option #3 based on structure separation and not tie it to a specific zoning district. Council Member McKinney stated he had no reason to disagree. Council Member Hardman stated she did not either.

Asst. Attorney Spoden asked if Council Member Hardman if she had any concerns about what to limit the zoning exception requests to as far as existing single family and limiting the percentage that you could request. Council Member Hardman stated she did not.

Director Twedt stated Staff will move forward with the zoning exception ordinance which will go directly to Council as it is contained in title 2 of code. The average front yard setbacks ordinance amendment will go before the Plan & Zoning Commission prior to Council since it is in title 9.

Direction: Council Members were supportive of the ordinance as presented.

3. Property Acquisition: S. 1st St & Lincoln Street

Parks & Recreation Director Orgies provided an update for the Committee regarding moving forward with the acquisition of the property along S 1st Street owned by Colby Six, LC, stating the owner is willing to sell this to the City. The City is drafting a purchase agreement and she wanted to make them aware of this before it shows up on an agenda.

CM Hadden asked Director Orgies to explain the larger project for securing the greenbelt and flood plain along Raccoon River corridor. Ms. Orgies stated this is part of the Raccoon River Greenway project. The property directly south of this area was donated to the City this past summer. She noted other areas on the sketch which are already owned by the City. This greenway will serve for recreational areas and as a floodplain protection. Ms. Spoden inserted that this current property owner will retain ownership and maintenance responsibility for a billboard area, and they also own property across 1st Street.

Direction: Council Members were supportive of the acquisition.

4. Upcoming Projects Due to time constraints, Upcoming Projects were not presented

- a. Des Moines University (8025 Grand Ave): Amend West Grand Business Park PUD to allow installation of private utilities prior to secondary PUD amendment to define development allowances and regulations. Amend PUD to set regulations for signage while under construction (ZC-004847-2020)
- b. Cascades at Jordan Creek II (SW corner of Cascade Ave & S 81st St): Amend land use and zoning from Medium Density (RM-12) to High Density (RH-18) to allow development of 2nd phase apartment building (CPA-004828-2020 / ZC-004827-2020)
- c. Oaks on Grand (Grand Ave: immediately west of DMACC): PUD amendment to remove the property from the Glen Oaks PUD then land use and zoning change from Support Commercial to Office to accommodate future development of office buildings (ZC-004845-2020 / CPA-004844-2020 / ZC-004843-2020)
- d. Westridge Elementary (5500 EP True Pkwy): 11,000sf building and associated site and landscaping improvements (MaM-004840-2020)
- e. Canine Country Club (2150 Delavan Dr): Board of Adjustment consideration of expansion of existing dog daycare with overnight boarding (PC-004817-2020)
- f. Erik's Bikes (950 1st St): Construction of approx. 7,600sf retail bike shop (SP-004852-2020)

- g. Bridgewood (Northeast and Southeast corners of Bridgewood Dr & 81st Street): Amend PUD to reduce setbacks to bring existing structures into compliance with regulations (ZC-004821-2020)
- h. Apex Dental (725 S 51st St): Initial site grading for future construction of approx. 12,400sf dental office (GP-004854-2020 / SP-004835-2020)

5. Minor Modifications & Grading Plans

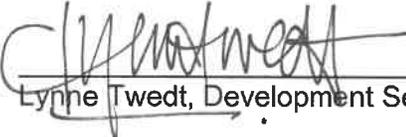
- a. Glen Oaks: Reconstruction of hole #14 (GP-004856-2020)
- b. T-Mobile (505 S 50th St): Add cell antenna to existing water tower (MI-004851-2020)
- c. Kestrel Solar (9396 Ashworth Road): Installation of roof-top solar array (MML1-004841-2020)
- d. Camp Bow Wow (2900 University, Ste 250): Implementation of outdoor play yard (MML1-004842-2020)
- e. Wright Services (5950 Grand Ave): Addition of walkway connection between buildings and site landscape and private trail improvements (MML1-004846-2020)
- f. 219 5th Street: Façade improvements (MML1-004849-2020)
- g. Allied Construction (2825 SE 1st St): Architecture review for outbuildings (MML1-004853-2020)
- h. Trieste (440 Fairway, Ste 120): Implementation of new awning (MML1-004855-2020)

Other Matters

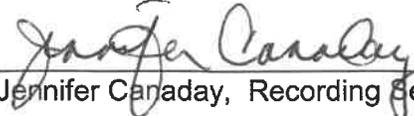
Council Member Hardman asked what Staff decided about DMU and signage. Director Twedt responded that two signs would be allowed to be located next to each other at each end of the site. The total square footage in one location is 128sf and the total between the two locations is the same square footage as would be allowed with one 64sf sign on each of the four street frontages. She noted that the setback would be increased to 50'. The sign ordinance will eventually be amended to allow this as a standard approach; however, Staff is waiting as a discussion with VJ Foundation has indicated a possible request to modify blade signage standards in Valley Junction.

Council Member Hardman informed that she attended an open house this past weekend at Grayhawk Storage (S 50th St), noting it is a beautiful building and that the owner was very complimentary of working with Staff. She also noted that neighbors attending were complimentary about how attractive the building is. Director Twedt stated they are glad to hear the residents like the building as the goal to allowing in office was to not have it appear as indoor storage.

The meeting adjourned at 9:26 AM. The next regularly scheduled Development and Planning City Council Subcommittee is October 5, 2020.



Lynne Twedt, Development Services Director



Jennifer Canaday, Recording Secretary

All Visitors to the Dev & Planning Committee meeting are asked to sign in.

Thank you!

DEVELOPMENT AND PLANNING CITY COUNCIL COMMITTEE MEETING
GUEST ATTENDANCE

Date: Sept. 21, 2020

Printed Name	Company	Day time phone #	Topic
Brian Fox	—	515-419-5771	Chickens
Courtney Fox	—	515-393-0771	Chickens