

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

NO	SOURCE	ARTICLE SECTION, PAGE	ISSUE (QUESTION, COMMENT, SUGGESTION)
1	Lyla Dozier		When did the PUD requirement of 5 acres come into play to request a PUD
2	Lyla Dozier-Woodland Heights	Map #1	Asks that properties on Linden Avenue and High Street from 23 <sup>rd</sup> to MLK be zoned R5 (See Comment 16)
3	Deric Gour-Drake, Riverbend		New Mixed Use Zoning Districts make NO protection against sub-standard Conversions of existing single family (or small multi-family) units. Any -2 or -4 overlay or any of the NX_ districts would allow conversion to the maximum unit allowed without a review. So a single family house could be converted to a 6-plex, or a 6-plex multi-family could be converted to a 12-plex. Drake and River Bend would request the entire neighborhood (outside of commercial corridors/nodes) be zoned a simple N2, N3, or N4. We would oppose the addition of ANY mixed-use NX_ districts and any -2 or -4 overlays (with small exceptions). Drake and River Bend neighborhoods would lobby against the use of ANY mixed-use NX_ districts or -2/-4 overlays in our neighborhoods unless some changes are made. The change we need to see in the Districts is some protection against Conversion of an existing building to increase the number of units in the building without some form of sight review/approval with neighborhood input. If the NX_ district rules could be modified to protect against inappropriate conversions and up-sizing on existing buildings, then we would be fully behind the new districts.
4	Todd Slaymaker		Please ensure that single family residences are not allowed to be converted to multi family dwellings.
5	Pub Outreach Mtg	Chap 135-1, Building Types	Provide photos of new construction that would meet house types
6	Pub Outreach Mtg	Chap 135-4, Parking	Consider parking credit or reduction along transit routes.
7	Pub Outreach Mtg	Chap 135-4, Parking	Can there be a requirement for green infrastructure (i.e. raingardens, biocells) in parking lots over a certain size? Ex: malls, office parks, big box retail, airport, industrial areas
8	Pub Outreach Mtg	Cha. 135-5 Landscape	Require topsoil restoration on new development sites
9	Pub Outreach Mtg	Chap 134-5 Signs	Is signage requirement applied to large campus development without some sort of permit?
10	Pub Outreach Mtg	Chap 135-6	Where in the administrative review process will there be neighborhood input?
11	Brock Hefel		Reducing urban pesticide use should be considered in this initiative. Child health, water quality and pollinator health are all effected by more pesticide use and in the future must be reduced.
12	Alan Demerest	General Comment	Observations re the new Zoning Plan: I feel that this is more of a look backward than a plan forward. I heard several times the comment had been made to you, "Don't change the character of our neighborhood". I understand that to some extent but the demands being made on the neighborhoods and the problems of our current real estate situation may well require change. In some ways, I feel the character of Beaverdale, where I have lived for the past 30 years, is a bit of a myth. As I travel through it I see many "Beaverdale Bricks" many of which have been modified as they had several problems including endless stairs. I have found several "round houses", Lustron houses, and concrete block houses with flat roofs and glass block construction in some areas. There are houses with small living spaces in the rear yard, very large 2 -3 story houses, and old WW II stick housing without eaves along side them. In short, the neighborhood has many forms of "experimental" housing of which the bricks were one example and they have contributed to the diversity of architecture and residents which I enjoy and feel contributes to the best neighborhoods. I do not feel the plan recognizes the changing dynamics of family growth with smaller families and, for the aging population, smaller, one story, living. Construction costs are leading to the consideration of modular construction in many areas - literally "stick together" buildings. Tiny houses may not be a fad as getting along with less "stuff" and living without cars is attractive not only to the younger generations but many older persons on very restricted incomes (which may be getting worse). We have a growing homeless population for which high rise apartments are not a good solution as we have found in the past. I note the requirement of an out building where there is no garage - an example of a place for "stuff". I am not sure Frank Lloyd Wright would be welcome in some of the neighborhoods - I suspect there are architects out there designing houses that don't fit too well with your rules for higher income houses as low, one story "modern" houses did not fit in with zoning regulations in some areas of Omaha where I grew up. I can't go step by step through all of the requirements with these observations as that would require several weeks of study. I commend you on your nod toward Complete Streets and some aspects that fit into Age Friendly living. We are confronted, for the next several decades at least, with greater disparity of income with the lowest brackets expanding rapidly and the very top end wanting to be isolated from that. NIMBY presents planning problems. Refurbishing older homes will not solve it all and methods of construction leading to lower cost will be necessary. I'll keep looking and making comments as I go into more detail in the plan. Thank you for seeking out these comments.
13	Jason Pulliam	Chap 134-5 Signs	Confirm how Ordinance addresses billboards. No new static/paper billboards, but also no new digital billboards, and the conversion credit system would also go away. It is also my understanding that billboard amortization is not currently on the table. If that is the case, please let me know if amortization was considered and how/why it was determined that the city does not plan to use that legal tool.
14	Jason Pulliam	Chap 134-5 Signs	Is a digital billboard moratorium under consideration to prevent a rush of conversions before any new regulations might be enacted. Given the lack of public notification for that permitting process, I am worried about what could happen to areas like mine that are already saturated with billboards. It is not inconceivable for a bad situation to become worse in relatively short order if we get additional digital billboards approaching 700 square feet very close to residential property.
15	Jason Pulliam	Chap 134-5 Signs	The current code essentially seeks to reduce the number of billboards over time through attrition. That is, once billboards are damaged by 60 percent or more, removal is required and replacement is not allowed. It would appear that the new zoning ordinance would more or less employ the same attrition strategy.
16	Lyla Dozier	Map #1	I'm writing to you about the current and proposed zoning of High St. east of 22nd st. and on the north side of High and Linden Ave. east of 28th St. The homes of concern on both High and Linden are zoned R2A at this time and we would like them to be zoned N5 under your new zoning classification.
17	Zack Slick	Chap 134-5 Signs	134-5.3.6, 135-5.8, Digital billboards are an important tool for local businesses in the Des Moines area. I'd really like to see digital billboards included in the new plan, and am asking you to please consider doing so.
18	Amy Slick	Chap 134-5 Signs	134-5.3.6, 135-5.8, To whom it may concern: Please include digital billboards in the new plan for the city of Des Moines. They are an important part of our community and the businesses in it.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

19	Jan Slick	Chap 134-5 Signs	134-5.3.6, 135-5.8, Please keep the digital billboards.....they keep our city "hip" and informed.!
20	Brenda Krumel	Chap 134-5 Signs	134-5.3.6, 135-5.8, Digital billboards have been an important communication vehicle for both private and public entities. Please include the approval of digital billboards in the plan.
21	Emily Marzen	Chap 134-5 Signs	134-5.3.6, 135-5.8, Please include digital billboards in your plan
22	Tim Welch	Chap 134-5 Signs	134-5.3.6, 135-5.8, I've come to understand that PlanDSM as now written will result in the elimination of digital billboard signs. I'm all for keeping the city's appearance attractive, but I certainly haven't seen evidence of too many digital signs causing obstruction or nuisance. Without question, the digital signs are more attractive than a substantial number of storefront and rooftop signs that currently exist. Additionally, businesses throughout the metro count on digital billboards in their advertising plans. I ask that City allow and incorporate digital billboards into the zoning plans. Seems like an easy decision to me.
23	Aaron Barriage	Chap 134-5 Signs	134-5.3.6, 135-5.8, I personally feel it would be a miss not to include digital billboard advertising in your plan. It's a great way for businesses to advertise
24	Megan Blackmore	Chap 134-5 Signs	134-5.3.6, 135-5.8, Hello! I heard that there were plans to remove digital billboards in the city of Des Moines. I don't feel this is necessary and sincerely hope that we do not remove them.
25	Nathan Bailey	Chap 134-5 Signs	134-5.3.6, 135-5.8, Most major cities have a digital billboard presence, I didn't see this in your plans, I believe it would be cool to have these throughout the city and can be put up in a way that would be attractive, thanks,
26	Sadie Trytten	Chap 134-5 Signs	134-5.3.6, 135-5.8, The Lamar staff and digital billboards have been a great asset to our community as we have utilized them to thank amazing award winners, educators and business owners as they work hard to make Des Moines thrive. Lamar has worked effortlessly with our organization to be sure we are promoting community involvement and positive messages in our community. Even helping promote events from DSMOpen St. SW 9th street event to Taste of the South Side where we bring residents together to enjoy the amazing food we have! Without this partnership and form of advertising, we would not have successful efforts on our end.
27	Timothy Lynn Jameson	Chap 134-5 Signs	134-5.3.6, 135-5.8, I feel that this rewrite was necessary however you have gone way to far in asking for no more digital billboards, how is this justified? This is nothing more than a personal bias against one industry in our city created by a (couple) people from (one) neighborhood and agreed to by ( one ) City Planning Administrator who is an employee of the city and not an elected official. I ask you were does the majority of DSM populations opinion of this 100 year old Outdoor Advertising Industry come into plan in this grand plan? Or are you just listening to a minute few from the minority, I ask you?
28	Breanne Barnum		After speaking with leaders in the River Bend neighborhood, the association is currently against our proposed zoning. Here is our stance, and hopefully there is a zoning classification that would fit: We are supportive of any zoning that would allow for greater density via new construction as we already have examples of those structures in the neighborhood - The Ayreshire, The Gables, etc. as long as the design and materials fit within the current fabric of the neighborhood in massing and material use. We are opposed to any structure that was built for single family use to be densified and would like to see a zoning vehicle that would assist in downsizing those that have been converted back to single family, ensuring single-family structures are not split into multiple living units in the future, and/or there are design restrictions in place (and enforced) so that converted properties retain their single-family exterior appearance. Let me know if you have any questions or would like to meet to discuss these items further. All in all, we believe the new zoning ordinances are going to be beneficial, but we'd just hope for a few more protections in River Bend then our current proposed zoning allows. See Comments 3&4
29	Tom Hudson	Chap 134-5 Signs	134-5.3.6, 135-5.8, please eliminate the digital billboards - they are a nuisance and major safety distraction
30	Sarah Todd	Chap 134-5 Signs	134-5.3.6, 135-5.8, I understand that the City of Des Moines is considering the removal of the digital billboards maintained by Lamar. I am opposed to this for many reasons. As an advertiser (I coordinate digital ads for Mercy), I find the billboards are a great way for the community to learn about services at Mercy. We hear many positive comments from employees, patients and the general public about signs they have seen. I also feel they serve a community awareness purpose when things like Amber Alerts or "most wanted" ads are posted. The digital boards are a huge improvement over the static boards--they look much cleaner. When visiting other metro areas in the Midwest--Minneapolis, Kansas City and Chicago to name a few--their skylines are far more inundated with billboards than Des Moines. I hope the City of Des Moines will consider keeping this communication vehicle, and the opportunity to expand to other areas that currently have static boards.
31	Amy Boggs	Chap 134-5 Signs	134-5.3.6, 135-5.8, Please include digital billboards in the new PlanDSM maps for the city's strategy going forward for zoning and development. Digital billboards are important to small business owners such as myself!
32	Bob Haines	Chap 134-5 Signs	134-5.3.6, 135-5.8, Great Plan, but please reconsider allowing the conversion of existing static billboards to digital displays. As a Media Planner, the cost to use digital displays with no production \$\$ vs. producing printed boards is a huge savings to media/production budgets. Also, digital boards are the future of advertising in the Outdoor community and since Des Moines is a forward thinking city, please reconsider allowing this conversion advertising option.
33	Jim Bollard	Chap 134-5 Signs	134-5.3.6, 135-5.8, As I understand it, there is no accommodation for digital billboards in the new zoning ordinance being worked on for PlanDSM. These boards can provide a valuable service to the community. LAMAR Advertising Company (prev Clear Channel) has provided free space to the Annual STAR Party the last few years which has been important in our ability to promote the event and keep all activities free for attendees. LAMAR has been a great partner. Digital billboards have a clean look and placed in the high traffic corridors are appropriate in my opinion. I understand the concerns some have about billboards in neighborhoods, but I think there is a need and a place for them. Thank you
34	James Walford	Chap 134-5 Signs	134-5.3.6, 135-5.8, Please reconsider the restriction on digital billboards. This form of marketing has been critical to the growth of my business! Thank you for your consideration.
35	Brian O'Keefe	Chap 134-5 Signs	134-5.3.6, 135-5.8, Please approve the expansion of DIGITAL BILLBOARDS within the City of Des Moines. It allows timely and accurate information to be shared concerning current and future events. It viewed or read by all demographics and requires no additional equipment phones or special services. During a natural or manmade incident, it can immediately be available to assist the public with critical information. Vote YES, to expand DIGITAL BILLBOARDS. Thank you! 40 yr. citizen of DSM.
36	Chelsea Lepley	Chap 134-2, Districts	E. 14th should be looked at more closely, with more transitional/mixed zones, and potentially higher density, especially between Grand View and downtown. That could be a really vibrant corridor, but it's neither walkable nor attractive right now. There should be more small-scale retail.
37	Chelsea Lepley	Chap 134-2, Districts	I didn't see a zoning district that would allow for small/cottage-size retail, but not larger retail. Is there no retail designation that would allow for something approximately the size of a house, but not the size of a Family Dollar?  I'm thinking that something the size of 1700 Woodland or 1401 E. 9th.  That would be perfect for some of the areas we want to seem more approachable, like the area between Grand View and East High.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

38	Rich Eychaner	Map 1	The lot at 3814 - 57th Street is already zoned C-2, but appears to be listed on the map as residential. This lot is part of a site (including 5701 Douglas) that Med Express has signed a ground lease on and are finalizing building plans. This should be automatically converted to MX3 as former C-2 land.
39	Rich Eychaner	Map 1	There are three former residential lots at 3818, 3830 and 3834 - 57th Street that should be added as MX3 property. 3818 is between the Med Express site and a parking area at 3822 & 3826 - 57th Street marked as MX3.
40	Rich Eychaner	Map 1	3830 & 3834 - 57th are also parking areas for the commercial buildings along Merle Hay, so should be added to the MX3 area in the master rezoning, rather than forcing later changes to the new zoning map. Houses were removed several years ago, so there are no adjoining home owners, and we own the houses north of 3834, which can remain residential.
41	Rich Eychaner	Map 2	One other, again, minor change, is downtown at the former 4th Street south of MLK. As you will recall, we purchased this ground from the city. It appears to show on the map as ROW, rather than as DX2. It is not buildable, because of access agreements and utilities, but has been assessed. As private property, it should show as DX2 on the map.
42	Hannah	Chap 134-5, Signs	134-5.3.6, 135-5.8, Hello I would like to voice my concern about the possible removal of digital billboards that comes along with this plan. I grew up on the south-side of Des Moines and have always felt the digital billboards helped boost local businesses. The billboard downtown on Court has gotten my attention multiple times which in turn has drawn me to check out more information on many events and even buy tickets to attend some. I also remember the HyVee ads that have been running there and in turn have made some trips to HyVee to check out the deals. I think digital billboards add value to the city.
43	Michael Rudawski	Chap 134-5, Signs	134-5.3.6, 135-5.8, I am contacting you to give my support to electronic billboards in the new zoning ordinance. I feel they are a great median for local business to get visibility in there market in a targeted way. Additionally the tax revenue generated for the city and the number of people employed directly or indirectly by the industry should be considered. Many business's utilize billboards in their advertising budgets to generate visibility and interest, not to mention the public service messages displayed.
44	Shane Lillegard	Chap 134-5, Signs	134-5.3.6, 135-5.8, In regards to eliminating Digital Billboard Signs, I strongly believe it is a step in the wrong direction for the city. Not only have these structures created local jobs (need for electricians, programmers, etc.), I feel they give the City a High End Tech feel to match what is being built in Des Moines and its suburbs. It also gives the City the ability to deliver Messages in a Blink of the eye (I remember seeing a tribute to a couple of Fallen Police Officers recently which is a nice Tribute to those involved).
45	Suzy Emmack	Chap 134-5, Signs	134-5.3.6, 135-5.8, Thank you for your consideration to include digital billboards in your new zoning ordinance plan.
46	Marilyn Nizzi	Chap 134-5, Signs	134-5.3.6, 135-5.8, Please add amortization on billboards so neighborhoods do not have to live with these forever. After a determined amount of time, they need to go away.
47	Eric Grubb	Map 1	We own a property at 4201 University which is a total of 8000 square feet and understand the recommended new zoning for this parcel, as well as the one to the north (1208 42nd), which is only a total of 6000 square feet, is MX2. To the west is proposed RX1, and to the north is N5. We met with an architect and had a pre-app with Des Moines staff to discuss potential options for redevelopment of these parcels, either separately or even together. The 3 story minimum height requirement within MX2 is an enormous problem for such a small parcel(s). The architect and staff struggled to figure ANY way to place a 3 story building on such a small site and provide any parking at all (there is no street parking anywhere nearby either). For such a small couple of parcels, we would like the proposed zoning to be revised to MX3, which would allow a 1 story building. We would be happy to discuss in detail with you and our architect at your convenience.
48	Aaron Kennedy	Chap 134-5, Signs	134-5.3.6, 135-5.8, Your proposal to eliminate any new additional digital billboards as well as prohibit any additional conversions of existing structures to digital units is a bad proposal. It will hurt local businesses, including mine. I hope you'll reconsider that portion of your proposal.
49	Tom Wollan	Map 1	I am on the North of Grand Community Board of Directors. We would like to suggest that the properties on 41st Street between Ingersoll and Woodland be designated N1b. They are larger older houses on larger lots in a traditional neighborhood.
50	Joseph Tessman	Chap 134-3, Uses	<p>134-3.5.18D, I have some questions about section 134-3 mainly section D. vehicle maintenance and service. I own an auto repair shop and I'm getting ready to buy and relocate my shop to another location. I came across this after learning a few things the pre application meeting. 134-3 section D. Vehicle Maintenance and Repair, Minor.</p> <p>My concern is 1. No more than 3 vehicles may be stored outdoors while awaiting repair or pick-up. 2. Vehicles awaiting repair or pick-up may not occupy required parking spaces.</p> <p>Can you explain to me what this means? to me I read this a repair shop can have no more than 3 vehicles out side at any given time. and these vehicles can not occupy a parking spaces. whether they are waiting repairs or waiting for a customer to pick up. if I have 5 technicians and they can each work on 4-6 cars per day how can a shop be limited to the number of cars (customers) they can have at any given time. I don't know of any shop that would be able to abide by these laws . what if I have a parking for 35 cars. am I allowed to use the parking spaces for my customers?</p> <p>here is the section copied and pasted as it read in the Draft 134-3 D. Vehicle Maintenance and Repair, Minor. uses that repair, install or maintain the mechanical components of automobiles, trucks, vans, trailers or motorcycles or that wash, clean or otherwise protect the exterior or interior surfaces of such vehicles. Minor vehicle maintenance and repair uses are subject to the following supplemental use regulations: CITY OF DES MOINES CHAPTER 134: ZONING DRAFT 134-3-13 134-3. Uses Commercial Use Category DRAFT 1. No more than 3 vehicles may be stored outdoors while awaiting repair or pick-up. 2. Vehicles awaiting repair or pick-up may not occupy required parking spaces. 3. All vehicles must be have current license tags. 4. Outdoor storage of junk, debris, tires or vehicle parts is prohibited.</p>
51	Carl Cooper	Chap 134-3	134-3.5.18D, I am the owner of Drake Garage, at 918 42nd St. This is in question of 134-3.5.18D, which states that I can only have 3 cars parked outside my building at any one time. please call and explain. also I could not find the date for the meeting. Call 515-991-9923

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

52	Mike Johnson	Chap 134-5, Signs	134-5.3.6, 135-5.8, It's exciting to see this plan for the city going forward, but I would really like to see it include digital displays.
53	Carolyn Uhlenhake Walker	Chap 134-3, Uses Chap 135-1 Building Types	Table 3.1-1, 135-1 Table 1.19-1, I have two main concerns in regard to the new Zoning Ordinance- rules about "solar installation" in Des Moines and rules about "Urban Agriculture". Both of these areas are being looked at in many cities across the country who are looking at lowering their greenhouse gas emissions and becoming a more resilient city in the face of climate change! First solar-all homes, office buildings, and businesses should have the flexibility of choosing a freestanding solar system instead of a rooftop system if the location or the roof doesn't allow rooftop solar. In the new proposal of a Zoning Ordinance, the provisions for freestanding solar are too restrictive-allowing freestanding systems in only 3 districts- Agriculture, Industrial, and Public-Civic-Institutional Districts. Please consider changing this! At the same time, that installation of freestanding solar systems is allowed, their should be the removal of the 6 foot height limit on less than 5 acres. If we are going to "promote solar installation" like PlanDSM states, we need to be more flexible. We need to be more flexible in our requirements for solar installation! PlanDSM states the need to "promote solar" in Des Moines! That includes allowing for "solar" as a Principal Land Use, not just an Accessory Structure. Clearly allowing "solar" as a principal land use will allow interested residents and businesses to build larger solar projects like the 1.5megawatt solar garden in Cedar Falls. Under this new Zoning Ordinance we couldn't do what Cedar Falls, Decorah, Dubuque, and Bloomfield are all doing!
54	Carolyn Uhlenhake Walker	Chap 134-3, Uses	Table 3.1-1, One more area needs to be promoted in this time of climate change and encouraging resiliency at the local level by growing our own food rather than shipping it in from 500-1500 miles away! That is "Urban Agriculture". If a young person wanted to start an urban agricultural project of growing fruits and vegetables in Des Moines, he or she couldn't do it. At this time only Community Gardens can grow them! It states Urban Agriculture has to be row crops and can only be grown in 2 or 3 areas of Des Moines. Cities like Milwaukee, Minneapolis, and San Francisco are all promoting "Urban Agriculture". We need to be growing more of our own food, and adopting more flexible provisions involving "Urban Agriculture" would help. We want Des Moines to become more resilient in the face of more extreme rainfalls, flooding, and drought!
55	Amy Johnson	Chap 134-5, Signs	134-5.3.6, 135-5.8, Hello! Just wanted to give some feedback on the DSMPLAN for zoning . Please include digital billboards in your plan . They have been significant in catching several criminals and other acts of public service. Thank you for your consideration.
56	Pearce Powers	Map 5	I have the Property which houses the Iowa Massage Institute LLC at 3017 Indianola ave Des Moines , Iowa 50315. understand that property yo have many many years of history as a retail and office space use. I plan to continue to use it as retail and office space and would like your planning to reflect this for my zoning. Not being zoned for residential use. As I plan to continue with Retail and office spaces there.
57	Terry Dvorak	Chap 135-1, Building Types	See Attached re solar
58	Carl Voss	Chap 135-4, Parking	See Attached re Bike Parking
59	Deina Hashimi	Chap 135-2, Design	135-2.2.2, In addition to N and NX Districts, allow vinyl siding on House C&D, Flat and Row building types
60	Hubbell Realty		Comment Period & Outreach, See Attached
61	Hubbell Realty		Implementation, See Attached
62	Hubbell Realty		Excessively Restrictive, See Attached
63	Hubbell Realty		Workload of Community Development Director, See Attached
64	Greg Wattier		Comment Period & Outreach, I am a current PZ member and have had the opportunity to be part of the new zoning code process and listen the presentations. i have heard from a few building owners and developers in town and they would like more time to digest the extensive amount of information and provide informed feedback to city leaders and staff. I'm not sure if they have specific concerns or not, but only a desire for more time to absorb the information and provide effective feedback. I do know there is concern about existing buildings that would be non-compliant if they needed to be rebuilt.  I believe additional time in the review process will help clarify questions and avoid unintended consequences. if any way possible, i'd suggest the review process be extended.
65	Paul Hayes		Comment Period & Outreach, Requesting an additional 60 days of public outreach
66	David Hickey	Chap 134-5, Signs	What are the new proposed regulations for on-premise signs in Des Moines? The ISA and our members would like to review any new language, improve existing regulations, and help in any way that we can.  Any insights that you can provide would be appreciated, thank you sir.
67	Adam Voigts, Grandview	Chap 134-2, Districts	134-2.2.9, Grand View University's campus primarily sits currently in two PUD zoning districts. The new zoning ordinance has the effect of grandfathering in existing PUDs but new PUDs are not allowed. Land cannot be added to existing PUDs but amendments can be made. Grand View University expects to continue to expand its campus property and therefore would like the opportunity to add land to both of our existing PUDs as we acquire additional properties surrounding our campus. A situation could arise in the future where Grand View would desire to amend one of our PUDs for a project, such as a new parking lot, that might use some land already in the PUD and additional land acquired in the future that is not in the PUD. We would propose that Grand View should be allowed to add land to an existing PUD as part of a future PUD amendment when it aligns with the purpose of the existing PUD.
68	Adam Voigts, Grandview	Map 2	Review of the proposed North central/Downtown Map indicates that the existing PUDs for the Grand View University campus are not accurately reflected. Recent amendments (2016) to both our east and west PUD added properties to the PUD that are not reflected in the PUD on the zoning map 2.
69	Adam Voigts, Grandview	Chap 135-4, Parking	The Parking Ratios Table 4.2-1. Indicates that parking ratios for College or Universities are established in accordance with 135-4.3.4. However, this section does not establish the parking ratio for colleges and universities. It only indicates a basis for the standard used for computing parking requirements. In short, there is no standard ratio that colleges and universities must follow. Grand View University recommends the zoning ordinance provide more specific requirements for colleges and universities. For example, the guidance might suggest one parking stall per five students plus one parking stall for every two employees. The ordinance might want to consider different requirements for residential students (ratio based on number of residential students or housing units) versus commuter students.
70	Adam Voigts, Grandview	Chap 135-4, Parking	The same lack of clarity exists in Table 4.5-1. For Bicycle Parking Ratios. The section for college and universities refers to 135-4.3.7 which discusses the Establishment of Other Ratios for vehicle parking. Grand View University recommends the zoning ordinance provide more specific requirements for bicycle parking at colleges and universities. In addition, we note that the long-term bicycle parking requirements for multifamily housing are excessive. Essentially, one bicycle parking stall is required for each of the first 50 units which must be protected from weather and be secured or monitored. This requirement will be challenging to comply with and excessively expensive to provide.
71	Adam Voigts, Grandview	Chap 135-6, Procedures	Grand View University notes that the submittal deadline to get on a P&Z agenda is proposed to be extended from 30 to 60 days. Grand View University submits that 30 days should be more than adequate time for staff to review requests or proposals before going on the P&Z agenda. A longer submission period will only slow down even more an already cumbersome process and inhibit economic development.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

72	Adam Voigts, Grandview	Chap 135-5, Landscape	135-5.11.2A, Grand View University notes that landscape standards will require considerably more islands in parking lots and more trees. While Grand View University applauds and we feel we have contributed to the City's efforts to beautify and make the City more green, we feel the existing landscape standards are adequate and suggest the proposed landscape standards be reconsidered.
73	Brennan Buckley		Comment Period, Extend public comment period beyond September 5.
74	David Courard-Hauri	Chap 134-3, Uses Chap 135-1, Building Types	<p>135-1.19.4.E &amp; F, I've been speaking with a couple of solar installers in Des Moines about the proposed regulations, and the sense that I'm getting is that there are serious problems with some of the requirements (such as the 4" maximum separation from the roof--I'm told that high quality installation requires 6"), the 4-5' height maximum, and the apparent lack of consideration for solar tiles (though perhaps the latter are regulated as shingles?). I wondered where those particular numbers came from, and it looks like they came verbatim from the Hartford regs, which may also have come from somewhere else. It's quite possible that changes in the industry are happening quickly enough that we should at least ask the question of whether the proposed zoning is actually implementing best practices.</p> <p>Thus, I have two thoughts.</p> <ul style="list-style-type: none"> <li>• First, is there a way that we could get the consultants and/or city staff to talk with some local solar professionals to make sure we're not making mistakes here?</li> <li>• Second, I'm wondering whether we couldn't just leave most rooftop installation questions to the building code rather than zoning, and maybe have very minimal requirements in the code--such as limiting the height above the roof peak and the total area?</li> </ul>
75	Matt Coen	Map 1	We are working on a mixed-use redevelopment design for the property located at 6015 Grand Ave (former Herndon's Nursery site). I have reviewed the proposed zoning map and see that it is identified as P-1. Clearly, this poses a major issue for the potential buyer (and seller for that matter) - do you have any time this week to discuss?
76	Greg Wattier	Chap 134-7, Nonconformities	134-7.3 & 7.4, One question that has come to my attention is how does the new zoning ordinance handle existing non-conforming use buildings? If these existing buildings are converted to a new use, can they remain non-conforming? That is how we have handled them currently. let me know if the new ordinance addresses this issue.
77	PCHTF		Finally, our one area of concern relates to the proposed design requirements and the potential for increased development cost. As a rule, PCHTF opposes stringent design requirements that can needlessly raise the cost of new homes. Some ordinances are so effective that communities can use them to effectively zone affordable housing out entirely. While I do not believe that the proposed Des Moines ordinance will have this effect, I will be watching future development proposals to assess the ordinance's impact on construction costs. I trust the City to address these challenges as they arise, but simply ask that you consider the cost of new requirements and support efforts to lower costs wherever possible.
78	Harold Good, DMPS		Public schools (P) designation is a much more diverse group than what the proposed zoning ordinance consists of. It crosses over into most all of the other zoning classifications and as such there should be exceptions to allow for this diverse group of functions. Examples are as follows:
79	Harold Good, DMPS		1. Assembly and meeting spaces for groups not classified as DMPS school functions.
80	Harold Good, DMPS		2. Joint ventures with groups such as The Boys and Girls Club and as such, both designated space and building signage allowed which may exceed that as permitted by code, but is necessary to communicate the joint use of building.
81	Harold Good, DMPS		3. Monument sign setback went to 20'. A variance procedure needs to continue in order to allow proper visibility of message where a 20' setback will not work
82	Harold Good, DMPS		4. School district has an AG program in conjunction with the FFA and as such has a livestock program. Provisions would need to be made for livestock associated with school functions to be allowed in the city limits.
83	Harold Good, DMPS		5. Part of the AG program is plant science whereby the students produce bedding plants. Each spring they sell these bedding plants to the public and special provisions are required for sales and temporary customer parking.
84	Harold Good, DMPS		6. Other programs hold special sales of items produced as well as concessions at events. Provision needs to be recognized for these sales.
85	Harold Good, DMPS		7. Screening of mechanical units needs to be reviewed for reasonableness such as if a PL is backed up by a wooded area or industrial area, the need for screening cuts into the available dollars which could be spent on educational facilities in lieu of screens.
86	Harold Good, DMPS		8. In association with screening of mechanical units, a provision should be to allow screens attached directly to mechanical units, thus eliminating additional penetrations through the roof membrane which can become the source of roof leaks.
87	Harold Good, DMPS		9. Public schools need to remain safe and secure and as such, provisions should be made to eliminate any requirement for evergreen trees, which can become a source of places for a perpetrator to hide behind. All bushes are wanting to be of a variety which will not exceed 3' in height and all trees to be deciduous.
88	Tim Kruse	Chap 135-1, Building Types	10. Trash enclosure requirements. Exceptions are required for those locations which have open area dumpsters, yet are not visible to any public right of way or adjacent neighbors. Construction requirements of trash enclosures should be lessened to be made more cost effective.
89	Laura Rettig		135-1.19.4.E & F The 6 foot height on ground mounted solar photovoltaic systems will drastically limit installations to the point it won't make financial sense. The 4' limit on roof mounted systems will make most racking systems unusable. I use a Quickmount flashing to seal around the shingles, that adds 1 1/4 to 1 1/2". I don't just screw an L foot down on top of the shingle like I have seen other companies do for their installations. Please raise these height limits so as not to shut down solar photovoltaic installations in the Des Moines metro area.
90	JB Conlin		Although unable to attend any meetings I've looked over the plans so far, specifically as it relates to our neighborhoods. Very comprehensive and detailed. An excellent job to all of those involved. Thank you!!
91	JB Conlin		These proposed zoning ordinances will increase construction and operational costs at a time when renters of decent and safe rental housing face a severe shortage in and around Des Moines. Furthermore, the requirements mandate amenities that tenants are not requesting.
92	JB Conlin		To build and monitor long-term bike storage diverts funds that could be put to much better use by property owners and manager to benefit tenants in terms of better property maintenance and more affordable rents.
93	JB Conlin		Also, the new ordinance will give the city up to 60 days to review a project before it goes to the P&Z Commission which is double the current review time for the city as well as any other municipality in the metro.
94	IEC	Chap 135-1, Building Types	Also, the new ordinance will give the city up to 60 days to review a project before it goes to the P&Z Commission which is double the current review time for the city as well as any other municipality in the metro.
95	IEC	Chap 134-3, Uses	Table 1.19-1, By directly addressing solar for the first time, the draft ordinance has made important progress towards these goals. In particular, the provisions in the draft ordinance allowing rooftop or building-mounted solar in every district, permitted as of right (without a conditional use permit), support the use of solar energy by homes and businesses. Rooftop and building-integrated solar installations have minimal land use impacts and it is therefore appropriate that they are expressly allowed as of right. These provisions should be retained fully in the final ordinance.
			Table 3.1-1, The Ordinance should be revised to clearly provide for the installation of solar as a principal land use. Des Moines' diversity of land uses means there are many areas--airport grounds, buffer areas around treatment plants or industrial areas, brownfields that cannot be redeveloped--within the city limits that are appropriate for principal use solar development. Not allowing this use would mean a lost opportunity for both the City and for its residents. Solar is popular among lowans and our

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			state policies both reflect and support this interest. Last year in Cedar Falls, the local utility installed the state's largest community solar project in the corner of a city park. The 1.5 megawatt (MW) community solar project, "Simple Solar," has been extremely popular with local residents, and currently there is a waiting list to purchase shares in the solar array. We would expect a similar community solar project in Des Moines to be enthusiastically received, particularly by its younger residents. (Millennials have a strong interest in solar, with more than half wanting to sign up for solar panels in the next five years.) The current draft of the revised ordinance, by not clearly allowing solar as a principal use, is inconsistent with both the overall vision of an innovative, sustainable city put forth in the new comprehensive plan, and with the specific goals and policies above.
96	IEC	Chap 135-1 Building Types	Table 1.19-1, 135-1.19.4F, According to the Accessory Structure Table on p. 135-1-71, freestanding solar is only permitted in agricultural, industrial, and public/civic/institutional districts. It is not a permitted accessory structure in any other district, including any neighborhood districts, even as a conditional use. We are hoping that the table is merely in error, as this restriction of freestanding solar inconsistent with the comprehensive plan policies identified above and with the provisions for building-mounted solar, which is permitted by right in every type of district. Furthermore, in the text of the regulations pertaining to accessory structures, size restrictions are specified for freestanding solar energy systems located "in any MX, N, or NX district," which it does not make sense to include if freestanding systems are indeed prohibited in these districts. We hope to see the table corrected in the next draft of the ordinance to resolve this inconsistency and allow freestanding or ground-mounted solar as an accessory structure in these districts. Furthermore, the revised table should allow some kind of permitting path for additional districts as well, including CX and RX districts, to enable businesses and office buildings to install freestanding solar energy systems that meet the Ordinance's development standards.
97	IEC	Chap 135-1, Building Types	In addition to revising the Ordinance to allow homes and businesses to install freestanding solar, the City should ensure that its requirements for such systems are actually workable. Because solar panels can be 6 feet long, and the Ordinance requires a 3-foot minimum clearance, the 6-foot height restriction on lots smaller than 5 acres would make installation of such a system difficult if not impossible. An Iowa-based installer made this point in regards to West Des Moines' proposed height restriction of 7 feet for ground-mounted accessory solar, which was subsequently changed to 10 feet in the final ordinance. We also note that the Local Government Solar Toolkit's Model Solar Ordinance developed for Iowa by the Great Plains Institute includes a height limit of 20 feet for ground- or pole-mounted systems "when oriented at maximum tilt." The revised height restriction should be at least 10 feet (per 4 West Des Moines), but a taller height restriction would encourage more solar installations (e.g., up to 20 feet per Solar Toolkit).
98	IEC	Chap 135-1, Building Types	135-1.19.4E2, The proposed Ordinance requires flush-mounted solar systems to be "less than 4 inches from the roof surface whenever possible." According to several central Iowa solar installers that we asked to review this provision, this is not a workable standard. Most available mounting systems are closer to 6 inches high, making the 4 inch distance difficult to accommodate. In addition, the Solar ABC's standard is 10 inches. The language in the draft ordinance indicates potential flexibility by stating that flush-mounted systems should be less than 4 inches from the roof surface "whenever possible," but this guideline is inconsistent with the industry standard for such systems and is unlikely to be possible in the vast majority of installations. As such, we question its utility in the ordinance and recommend that it be removed. As an alternative, the Solar ABC's standard of 10 inches could be adopted.
99	IEC	Chap 135-1, Building Types	135-1.19.4E8, the freestanding solar provisions require systems to be "gray, natural green, or beige in color, with the exception of the solar photo-voltaic panels" or the system must be screened from view. In our experience, the rack systems used for freestanding solar are frequently galvanized steel or aluminum materials and may be more commonly described as 'silver' or 'metallic' in color. We recommend expanding the list of acceptable colors in this provision to include both silver and metallic. Alternatively, it may be better to prohibit only a few specific colors that are uncommon for racking and that the City would want screened - e.g., bright red, yellow or orange.
100	IEC		Adding provisions that address the installation of solar energy systems is a welcome and much-needed update to Des Moines' land use regulations. However, the comprehensive plan written to provide the foundation for this update includes as one of its policies: "Encourage the use of local renewable energy resources, technology, and design, and consider code and process amendments that encourage or do not inhibit sustainable development practices [emphasis added]." Public Infrastructure Utilities Policy 11. In the chapters of the proposed ordinance 5 provided for public review, there is no language encouraging the use of wind or solar (for instance, in Section 134-1.5, describing the Purposes of the zoning ordinance). Furthermore, the provisions related to solar access are difficult to locate. The word "solar" does not actually appear anywhere in Chapter 134: Zoning, even as a cross-reference. Most users of the regulations will probably not intuitively look in the Building Types section of Chapter 135 to discover whether solar is a permitted use in their district. We understand that this is a form-based rather than a traditional zoning code oriented around uses. However, we hope the city staff and consultants will consider revisions to the language of the zoning chapter and/or to the organization of the ordinance as a whole
101	Mark Siegfried	Map 1	641 42 <sup>nd</sup> , 4105 Woodland Avenue, 638 40 <sup>th</sup> , 630 40 <sup>th</sup> , 613 41 <sup>st</sup> , 621 41 <sup>st</sup> . These are not N5 but clearly N1/N1A/N1B. Circled in red. These homes/forms are virtually identical to those west of Ingersoll in nearby Ingersoll Park neighborhood (N1 & N1A), being the same age, architecture, character and scale of house and lot.
102	Laura Rettig		Although unable to attend any meetings I've looked over the plans so far, specifically as it relates to our neighborhoods. Very comprehensive and detailed. An excellent job to all of those involved. Thank you!!
103	Sadie Kleppe		The new zoning ordinance provides a great deal of power to city staff, particularly the community development director, who is not appointed by the public.
104	Sadie Kleppe		The proposed ordinance is a large body of information with very significant changes to the zoning of many properties, the process for site plan approval, the zoning & design requirements, and to the landscape requirements. Stakeholders need more time to review & digest this document to better understand how these changes will impact the future of their investments. One month is not a sufficient amount of time for the review & comment process.
105	Sadie Kleppe		It seems that the city has not taken appropriate measures to properly inform & engage the public, specifically property owners & key development players. When a project goes before P&Z and/or City Council, the developer is required to directly notify the adjacent neighbors of the opportunity to participate in a public hearing. While there have been a few public hearings during the new zoning ordinance development, the city has not taken responsibility to directly notify property owners of the opportunity to review & comment on the proposed zoning ordinance and the zoning changes being implemented. Such significant changes warrant a stronger communication process & transparency of the options available to participate.
106	Sadie Kleppe		When you look around the city at some of the most impressive development projects or landmark buildings, it seems that many of the design requirements per the new zoning ordinance would not be achieved even by the city's most adored projects. Take the Des Moines Central Library for example: it may be clad in glass, but during the day it has little to no transparency through that glass. Civic buildings are afforded the most flexibility under the proposed ordinance, however the existing library still would not meet the 12% transparency requirement. The new Kum & Go headquarters, another landmark project for Des Moines, will also not meet several of the requirements.
107	Sadie Kleppe		The architectural design requirements are too specific and too regimented. Some requirements, such as specifications for shadow line locations and material transition requirements, may limit the creative design process and have an adverse effect on the quality and variation of architectural styles in new buildings. More flexibility should be provided. The list of allowed building materials is very limited and there is no apparent process for seeking approval of alternate materials by demonstrating an equivalent level of quality and durability. A project should not be subject to a +60 day review process (Type 2 design exception) due the desire to use an alternate material of equal quality & aesthetic.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

108	Sadie Kleppe		Consideration needs to be given to the level of hardship that property & business owners will incur due to the many small and irregular sites throughout the city that are not able to support the new zoning regulations. A staff member of our firm attended a pre-app meeting earlier this week and outlined the following scenario: In the case of the property discussed at my pre-application meeting, the existing classification, C-1, would allow a typical retail, coffee shop or fast food restaurant under the current code. The City's new proposed district is MX2. MX2 requires a 3-story building type with 90% building frontage on the primary street. Our site is 0.3 acres and will not support that size of building with the associated parking. Under MX2, the site will be very challenging to redevelop without multiple waivers.
109	Sadie Kleppe		It is important for property owners to closely review the new zoning maps and associated zoning changes that will come into effect. Many properties will no longer be in conformance and will require significant modifications for any future renovation or expansion. If these properties are not able to receive significant exceptions, this may either hold up future development/improvements or it will force smaller business & property owners out of downtown/Des Moines. It is unfortunate to think that smaller entities and entrepreneurs may not have a chance at participating in the Des Moines real estate market.
110	Sadie Kleppe	Chap 135-6, Procedures	Chapter 135-6.2.1 (B,C, &D) & 6.2.2 Comment 1: The proposed process for Type 1 design exceptions is subjective and dependent on whether or not the owner & design team can successfully convince the community development director that the proposed design is at least equal. Under the current site plan approval process, the applicant has the option to go to P&Z seeking approval, even when staff does not fully support a proposal. The proposed changes would require an additional appeal process in order to receive exceptions if the applicant & staff are not in agreement. This requires additional time & resources, both of which are very costly to stakeholders.
111	Sadie Kleppe	Chap 135-6, Procedures	Chapter 135-6.2.1 (B,C, &D) & 6.2.2 Comment 2: The language in Sections B & C (Ch.135-6.2.1) seems contradictory. The intent is to provide relief when strict compliance with the regulations are impractical or undesirable, however the applicant is burdened with proving that the proposed design exception would equal or exceed strict compliance. There will likely be many situations arising out of this scenario where properties will not reasonably support the design regulations due to lot size (example above- MX2 on 0.3 acre lot), existing conditions, market conditions, and many other factors.
112	Sadie Kleppe	Chap 135-6, Procedures	Ch 135-6.1.6 (C): The 60 day administrative review process for "public hearing site plans (type 2 design exceptions)" is followed by a requirement to resubmit revised site plans. The community development director (CDD) can then provide additional comments requiring further revision or establish date for a public hearing by P&Z.  Comment 1: This could be more than a 2 month long process prior to approval for P&Z agenda, which is up to the discretion of the CDD/staff. - It does not seem appropriate that staff gets twice as much time (60 days) to review 'type 2 exceptions' compared to the 30 day review for administrative site plans or 'type 1 design exceptions'. Since the application must provide detailed explanation of design exceptions (per Ch. 135-6.2.1 (D)), staff should not require such extensive time to review exceptions that they are authorized to approve. - A time frame for the second round of review & comments needs to be established. There should be a limit on this process to avoid unnecessary deadlock between staff & the applicant through a long process before establishing P&Z review.
113	Sadie Kleppe	Chap 135-6, Procedures	Ch 135-6.1.6 (C):  Comment 2: There should be a process for an applicant to fast-track the process for being placed on P&Z agenda when design exceptions are clearly outside the scope of the CDD's approval and the applicant would prefer to seek approval from P&Z without a long negotiating process with the CDD/administrative staff (i.e. when the majority of the site plan is in compliance but there are a limited number of type 2 design exceptions that are non-negotiable due to specific project requirements).
114	Sadie Kleppe	Chap 135-2, Design Requirements	Ch 135-2.2.2 Major Materials: Comment 1: Architectural metal panels should be allowed for a greater area. Per this language, only 40% of a wall area, excluding glass, could be metal panel [under (A)]. This is highly utilized, durable, and appealing material and should not be limited. Metal panel would be more appealing than Stucco! It is also more durable long term than many wood products.
115	Sadie Kleppe	Chap 135-2, Design Requirements	Ch 135-2.2.2 Major Materials: Comment 2: Fiber cement board is not mentioned, which should be allowed and is appropriate for buildings such as multi-family, hotels, retail, and several others. The Commercial Cottage building type especially should allow this material, since it is transitional between commercial & neighborhood areas. It does not appear to be allowed per these requirements. It should be allowed, even if it is paired with some limitations (i.e. limited to specific districts or not used as single major material).
116	Sadie Kleppe	Chap 135-2, Design Requirements	Ch 135-2.2.5 Material Installation Quality: Comment 1: The material transition requirements demonstrated in Figure 2.3-C Diagram of Allowable Changes in Surface Materials, are far overreaching. This type of regimented design requirement is frustrating and undermines the integrity of architects & design professionals. Also, these transitions don't make sense with most material thickness and installation techniques. The only way to achieve such depth variation is with the frame of the building, which complicates the structural design or results in furring out walls, which further adds to cost. There are a great deal of strategies for utilizing a variety of materials and appropriately transitioning between materials. One diagram should not serve as the rule for all building types.
117	Sadie Kleppe	Chap 135-2, Design Requirements	Ch 135-2.5.4 Mechanical Equipment & Utility Appurtenances on Facades: Comment 1: The requirements for mechanical equipment are going to be difficult to provide at the site plan approval stages. This information is typically not coordinated until the final building design is much further along. In the case of multi-family projects, it is unrealistic to feasibly meet many of these requirements, particularly under item 'A. Facade.'
118	Sadie Kleppe	Chap 135-4, Parking	Ch 135-4.5.4 Design and Location of Class A Bicycle Parking Spaces Comment 1: Several of the requirements for Class A Bike Parking are excessive for small business or smaller projects to feasibly meet. -The bicycle protection requirements add additional liability for property owners to protect property of others. -This is more restrictive than protection provided for motor vehicles, which is not required.
119	Sadie Kleppe	Chap 135-4, Parking	Ch 135-4.5.4 Design and Location of Class A Bicycle Parking Spaces Comment 2: Class A bike parking is an amenity and should not be enforced as a requirement for any project
120	David Hickey	Chap 134-5, Signs	5.1.1 PURPOSE The sign regulations of this article are intended to balance the following differing, and at times, competing goals:  ISA - We recommend that Des Moines include "To promote economic development" or words to that effect as part of its purpose statement.
121	David Hickey	Chap 134-5, Signs	5.4.1 SETBACKS, SEPARATION AND SPACING A. Unless otherwise expressly stated in the sign regulations of this article, all freestanding signs must be set back at least 20 feet from all lot lines.  ISA - A 20' setback may take a freestanding sign outside of the 20 degree "cone of vision." We recommend a setback of 5'.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

122	David Hickey	Chap 134-5, Signs	<p>5.4.2 ILLUMINATION A. The lighting or illumination of any sign must be effectively shielded to prevent glare or light from being directed at any portion of the travel lanes of any street or be of such low intensity or brilliance so as to not cause glare or to impair the vision of motorists or interfere with any driver's operation of a motor vehicle.</p> <p>ISA - This seems subjective and very difficult to enforce and may result in illuminated signs being less visible at night.</p>
123	David Hickey	Chap 134-5, Signs	<p>5.4.2 ILLUMINATION B. Except for authorized electronic display signs, the illumination on the face of any allowed illuminated sign must be by constant light and may not exceed 70 foot candles measured at a distance of 2 feet from the face of the sign. See 134-5.8.7 for supplemental regulations that apply to electronic and multi-vision displays.</p> <p>ISA - We recommend against lighting standards for traditional, internally-illuminated signs, as the plastic flex faces have too many different variables to take into account when determining brightness. There is a basic difference between electronic or digital signs that incorporate exposed light sources (e.g. LEDs) and traditional, internally-illuminated signs where the light source is filtered through a plastic face. Whereas a digital sign is designed to emit light directly to the viewer, an internally illuminated sign uses the light source to make its face bright enough for the sign to be detectable and prominent. Light pollution is not an issue with plastic-face signs because, when the source light is filtered through the plastic face, which has varying degrees of thickness, age, cleanliness, etc, a substantial portion of the source's luminance is lost. On the other hand, when a digital sign or light fixture is viewed, there's nothing to reduce the intensity of light emitted from the source.</p> <p>At the very least, the brightness standard for these kinds of traditional, internally illuminated signs (i.e., channel letter and cabinet signs) should be approximately 750 nits.</p>
124	David Hickey	Chap 134-5, Signs	<p>5.4.5 Directional Signs</p> <p>ISA - "Directional sign" could be considered content-based regulation under the Reed decision, should be referred to as "driveway signs" or something similar.</p>
125	David Hickey	Chap 134-5, Signs	<p>5.5.4 Window Signs</p> <p>ISA - We recommend that 50% of windows be allowed, as this is a very effective and affordable sign type for businesses.</p>
126	David Hickey	Chap 134-5, Signs	<p>5.5.6 Temporary Signs</p> <p>ISA - All of the sign types listed are in potential conflict with the Reed case. For instance, a real estate sign should be referred to as a post sign with time, place and manner restrictions. The same applies to all other temporary signs, these all need to be regulated on the type of sign versus the message. As currently drafted the City would need to read the sign to know what kind it is, which is a key attribute of a content-based regulation.</p>
127	David Hickey	Chap 134-5, Signs	<p>5.7.4 MONUMENTSIGNS A. Maximum Number and Area. The maximum number and area of all monument signs allowed in DX, X, I and P zoning districts may not exceed the limits established in Table 5.7-1. B. Maximum Height. Monument signs are subject to the following height limits, as measured from grade to the highest point on the sign: If located at or within 25 feet from the front lot line, the sign may not exceed 8 feet in height. If located more than 25 feet from the front lot line, the sign may not exceed 15 feet in height.</p> <p>ISA - 25' is an excessive setback for a sign and may place this out of the 20 degree cone of vision. Same comment for a 15' tall sign. A more reasonable approach would be 5' setback for and 8' sign and 10' for a 15' tall sign.</p>
128	David Hickey	Chap 134-5, Signs	<p>5.8.2 WHERE ALLOWED Electronic displays and multi-vision displays may be incorporated into allowed monument signs in accordance with the regulations of this section.</p> <p>ISA - We recommend that electronic displays also be allowed on wall signs and pole signs, where those kinds of signs are allowed</p>
129	David Hickey	Chap 134-5, Signs	<p>5.8.3 MAXIMUM AREA No more than 24 square feet of a sign's allowed sign area may be devoted to an electronic display or multi-vision display.</p> <p>ISA - We recommend that 50% of the allowable square footage be allowed, as 24 sq. ft. may not allow for sufficient sign area for the message to be safely seen and understood by the intended viewer.</p>
130	David Hickey	Chap 134-5, Signs	<p>5.8.7 ILLUMINATION A. The brightness of any electronic display or multi-vision display may not exceed a maximum illumination of 5,000 candelas per square meter (nits) during daylight hours and a maximum illumination of 500 candelas per square meter (nits) between dusk to dawn, as measured from the brightest element on the sign's face.</p> <p>ISA - The proposed illumination levels are and outdated standard that was used when EMCs were developed a number of years ago. We recommend the City adopt ISA's EMC brightness recommendations, which have been adopted by over 200 communities across the country, including several Iowa jurisdictions (<a href="http://www.signs.org/Portals/0/PDF/pdf2016/ISA_EMC_Recommendations_Refresh_FINAL.pdf">http://www.signs.org/Portals/0/PDF/pdf2016/ISA_EMC_Recommendations_Refresh_FINAL.pdf</a>)</p>
131	David Hickey	Chap 134-5, Signs	<p>5.9.1 Sign-Related Measurements</p> <p>2. Channel (Individual) Letter Signs a. The area of a sign comprised of individual letters or elements attached directly to a building wall is determined by calculating the area of the smallest rectangle that can be drawn around the letters and/or elements (see Figure 5.10-J).</p> <p>ISA - We recommend that multiple standard geometric shapes be allowed for channel letters and signs under b. to not penalize irregular shapes. This will encourage and allow for more creative signs.</p>
132	Colleen Kinney		<p>publication notification for major zoning changes inadequate. Many property owners received city newsletter in mail the day (Sept. 5th) the public comments period ends.</p>
133	Colleen Kinney		<p>input using only online purposes leaves out large population</p>

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

134	Colleen Kinney		process fails to incorporate council-approved neighborhood action plan objectives for several key concerns, such as historic district and landmark designation as well as encroachment of commercial into residential areas
135	Colleen Kinney		the draft documents fall short of enact amortization provisions to require removal of non-conforming billboards by a date certain. Due to legitimate concerns about aesthetics, residential property values, and neighborhood vitality, the city has an obligation to ensure removal of non-conforming billboards that are not allowed by current ordinance or contemplated in new zoning regulations, especially in areas where the signs are less than 500 feet from residential property lines.
136	Jake Christianson		Extend public comment period, Increase outreach
137	Michael	Chap 134-5, Signs	134-5.3.6, 135-5.8, In reviewing the PlanDSM vision for the future of Des Moines, I'm concerned about the lack of leeway for digital billboards that seems to be outlined in it. More than just advertisements, which is a healthy part of commercial growth, outdoor ads have served churches and non-profits like ours by providing low cost means to advertise, as well as important public service messages that I've seen on many of the digital displays around Des Moines. I would kindly ask that you consider allowing such displays in the future.
138	Thomas Trapp	Map 2	<p>Please consider this request to review the zoned classification for the parcels listed below based on the building type, building setbacks, open green space, and the future need for the construction of leasing office/clubhouse for the apartment complex.</p> <p>The River Hills Apartment at 700 East 5th Street, 701 East 5th street, and 700 East 7th Street is located just north of the Historic East Village between the commercial and residential district and I-235. There are (3) parcels that combine to create entire property known as River Hills Apartments, parcels # 040/03804-006-001, # 040/03804-004-001, and # 040/03804-002-003.</p> <p>The property contains (1) 5-Story Mid-Rise and (12) 3-Story Flat Building Type with a total of 237 dwelling units set in a park-like setting on 13.5 acres of land. According to the City of Des Moines - Zoning, Planning and Design, Chapters 134 &amp; 135 (Draft - Dated August 3, 2017) As shown in zoning map section 2, parcels listed above are zoned DXR District which is intended for mainly residential neighborhoods of downtown, surrounding downtown, and across the rivers from downtown. The principal use of these parcels is Residential - Group Living (134-3.3.2). It is more appropriate to zone these (3) parcels RX2 District which is intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity higher than RX1.</p> <p>The future building that will house the leasing office, fitness center, and clubhouse has become an amenity that is expected and all, but required by renters. This type of building would be an Accessory Structure - Outbuilding for the residential use of the property. This type of building is not allowed in the DXR District, but is permitted with development standards in the RX2 District.</p> <p>Please consider revising these parcels accordingly to more accurately describe the conditions of the current property and allow for the addition of a future amenity.</p>
139	Colleen Kinney	Map 1	Change 610 40th Street and 614 40th Street to solid N5. These have been high quality, well-maintained single family residences for over a decade.
140	Colleen Kinney	Map 1	Change designation of 613, 621, 630, 635, 637 and 638 41st Street as well as 4105 Woodland and 641 42nd Street to N1A or N1B.
141	Megan Brown	Chap 134-5, Signs	<p>134-5.8, I tried to stop the city from allowing the digital billboard outside the Des Moines Playhouse on 42nd Street. Why? Because Hubbell Elementary School is right across the street and the billboard is easily visible from the front windows, including the school library windows. The billboard's flashing constantly distracts students, and many are frightened by the disturbing images posted on it (wanted criminals, politicians insulting each other, et cetera). Also, no one at that busy intersection needs the extra distraction to drivers -- there are pedestrians everywhere, some of them very young, and the flashing can cause accidents.</p> <p>The current proposal falls short of enact amortization provisions to require removal of non-conforming billboards by a date certain. Due to legitimate concerns about aesthetics, residential property values, and neighborhood vitality, the city has an obligation to ensure removal of non-conforming billboards that are not allowed by current ordinance or contemplated in new zoning regulations, especially in areas where the signs are less than 500 feet from residential property lines</p>
142	Jennifer Drake	Map 4	<p>I am writing on behalf of KCM Enterprises, LLC, the owner of the property located at 4720 SW 26th Street, Des Moines. According to the draft plan, this property will be classified as P-2 (public/civic use). Because this property is currently being used as a private parking lot for the storage of automobiles, with the intent of using it for the purposes of selling automobiles via wholesale auction, the desired zoning classification is I1.</p> <p>I am writing again on behalf of the property owner of the property located at 4720 SW 26th Street. In reviewing the proposed zoning districts and given the owner's desire to use the property for the sale of automobiles, it may be more appropriate to classify the property with a CX classification.</p>
143	Michelle Raymer		I would like to see more emphasis placed (required) for affordable housing units in new multiple family dwellings. Additionally I think new projects should show more elements of sustainability. In particular, plans for diverting rain water such as rain barrels, rain gardens, and permeable pavers, as well as energy efficiency and use of green building materials.
144	Paul Goodwin	Chap 134-5, Signs	134-5.8, The City of Des Moines has an obligation to completely rework the zoning regulations concerning our City's ever growing number of non-conforming billboards. With the City's efforts to rework and modernize our zoning regulations, the City has the opportunity to demonstrate its support of the neighborhoods that have been fighting the plight of signage for decades. As the President of the Ingersoll Park Neighborhood Association, I do not want to revisit the challenges, frustrations and, ultimately, failure we experienced with the installation of the animated billboard on the south side of the Des Moines Playhouse. Between residential concerns and, in the case of the Playhouse billboard, the safety of school children, the City of Des Moines must take bold and explicit action in regulating non-conforming and digital billboards. Thank you for your help with this issue and let me know, if I can help move this effort forward.
145	Sandy Easter	Chap 135-1, Building Types	135-1.19.4E&F, I would like to comment on the plan. I believe the new zoning plan is progress except for having restrictions on where solar arrays can be placed. We were lucky to be able to have rooftop area that is open to sunshine during the day and could have solar power installed. The plan has restrictions on placing solar where it can be seen and I think that is a mistake. A neighbor of ours has solar on the front part of their roof where it can be seen. It looks good and I'm glad others can see it and start thinking about getting solar too. We need to get off of fossil fuel and solar and other clean energy is vitally important.
146	Stuart Ruddy, Knapp Properties		See Attached.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

147	Lance Henning	Affordability	See Attached, Concerns about non-conformities on several owned properties and design standards
148	Lance Henning	Chap 135-1, Building Types	<p>Building Types, 135-1.17, ROOF PITCH - On 50 ft wide lots (very common in Des Moines as lots of records) there are neighborhoods where houses are significantly less than 35 ft wide, have a roof pitch less than 8/12 and are single story homes. An unscientific look of 96 random houses found Mondamin neighborhood had 60% one story houses and 72% with roof pitches at 6/12 or less. An unscientific look of 102 random houses found in MLK Jr Park neighborhood had 65% one story houses and 91% with roof pitches 6/12 or less. A steeper roof pitch is a \$4,000 to \$6,000 addition to the house cost.</p> <p>Affordability Recommendation - Adjust zoning districts and house types to match the character of the existing neighborhood. In neighborhoods with a common existing characteristic (say 30% or greater of the houses) allow those traits matching the neighborhood to continue to be built....for example single story less than 35 ft of frontage with a roof pitch less than 6/12 should be allowed by standard code in neighborhoods such as Mondamin Presidential, northern portions of Drake, many areas on South side, MLK Jr Park, and some portions of Union Park.</p>
149	Lance Henning	Chap 135-1, Building Types	<p>Building Types, HOUSE SIZE - By requiring larger frontages and/or steeper roof pitches it is creating more house. The code should provide opportunity to build less house. A large number of the consumers want a basement, want three bedrooms, and want a house they can afford....trying to insert design standards of a Prairie Trail development into a neighborhood with majority single story and lower roof pitches is not on the consumers list of wants.</p> <p>Affordability Recommendation - Adjust zoning districts and house type to allow appropriate areas in the city with less house, not adding more. More districts need to have house narrower house widths that match the existing houses and lot sizes. Add a house type that would be smaller than any of the current proposed.</p>
150	Lance Henning	Chap 135-1, Building Types	<p>Building Types, 135-1.19C, GARAGES - As is currently presented in the proposed code, there should be NO garage requirement in the code. It is a significant cost addition to creating housing. A single stall garage will be in the \$15,000 range with concrete, lights, building materials, gutters, siding type and color match to the house, and labor. Apartments do not have a garage requirement and the look of the stuff and vehicles in their large lots looks way worse than 95% of the items seen in residential yards.</p> <p>The common issues that take away from the look and care of a residential property is generally unrelated to garages and includes inappropriate items on a front porch, visible trash containers, over grown bushes, un-kept and beat-up fence lines, toys, bikes, parking in yards, and driving across yards. These are items that are not about garages. There are thousands of well-kept yards across the city that have no garage and there are hundreds of properties with garages that have multiple items listed above in view from the street and need the visible area cleaned-up. In many instances the houses with the "stuff" issues or issues listed above are the rental units. Don't penalize and price out future homebuyers on issues that at the heart of it are not about garages.</p> <p>Affordability Recommendation - Keep a garage requirement out of the code.</p>
151	Lance Henning		Lot of Record - Another thought, would there be a possibility of two standards in the zoning?...1) for new subdivisions that might be closer to the proposed code....2) for lots of record design requirements that match the existing character of the neighborhood
152	Lance Henning		Alley - Will the city guarantee alley maintenance as a priority every where they require the drive to be off the alley? Many many allies are overgrown scratching the car side as you drive down, not plowed at all, and more of a dirt path than any sort of road to get to your house. Should a homeowner's job and the hope to make it to work on a wintery day depend on them having a neighbor with a snow plow to get them down the alley to the street?
153	Lance Henning	Chap 135-1, Building Types	Building Width - does a porch count as part of the building width?
154	Lance Henning	Chap 135-1, Building Types	135-1.14.3, 135-1.15.3, Eave Height - How does a 2-story maintain a maximum eave height of 16 feet? See 135-1.14.3 House B Regulations and 135-1.15.3 House C Regulations
155	Lance Henning	Chap 135-7, Measurements	Transparency - 135-7.1.7 - If the house is a corner lot, does this hold for the side elevation facing the street?
156	Scott Bents	Chap 135-5, Landscape	135-5.13.4C, Should be "Chain link and wire" in order to be consistent with 135-5.13.1.D.1
157	Scott Bents	Chap 135-4, Parking	135-4.2.4C, Change the word "reduced" to "alternative", since this section is discussing alternative parking ratios, not just reduced ones.
158	Scott Bents	Chap 135-4, Parking	135-4.4.2B, Credits for bike share. Giving only 2 parking spaces as credit is not enough incentive. Please consider increasing this to 4 spaces.
159	Scott Bents	Chap 135-4, Parking	Table 4.5-1 Bicycle Parking Ratios: Please include airports in this table, which would help both employees and travelers who wish to bike to the airport. Consider 0.125 per 1,000 square feet for Class A, and 0.25 per 1,000 square feet for Class B.
160	Scott Bents	Chap 135-4, Parking	135-4.5, General Comment: please consider including specifications for the bike rack design. Not all bike racks are created equal, and some are very poor when it comes to protecting a bike from damage or theft. Please consider requiring inverted U-type racks, as they provide excellent security and take up little space.
161	Steve Stimmel	Chap 135-1, Building Types	135-1.17.3D, Following a very brief review of the zoning map and narrative drafts, I have one observation thus far to offer in the roof types subsection, 1-35.1.17.3. D. If I understand the requirements correctly. The draft appears to require eaves that are a minimum of 12 inches deep from the face of the wall. From my perspective living in Beaverdale, and professional work throughout the state, many houses of the 1930s-1950s period were designed with limited or no projecting eaves, often limited to the thickness of the wood trim. This lack of eaves, particularly at gable ends is a character defining feature that I believe should be allowed in modest historic neighborhoods constructed through the 1930s-1950s. In addition to several houses illustrated in the draft document, below are some Google Map screen shots of houses on 2000 block of 40th St, 2400 block Beavercrest Ave, 2500 block of 51st St and 1600 block of 55th St, all in Des Moines and all in proposed zones N3B or N4. (NOTE: The photos did not copy from the Email)
162	Adam Voigts, Grandview	Chap 134-2, Districts	134-2.2.9, In addition to my initial comment below related to the inability to add land to existing PUDs, we are not clear on the procedure for making small changes to the current PUDs. It appears any change to the PUD would require going to P&Z and council for approval. Thus, a minor change to a sign could be a 90 plus day process. Given the cumbersome process for making change to PUDs, it appears the City would prefer that existing PUDs be eliminated. Grand View would welcome further discussion about eliminating our two PUDs as long as there is a clearly defined and simple process to make a change to something like RX2 for our campus. In the long run, we would prefer a simpler and easier process to get zoning and other changes made to our campus property and any property that we acquire in the future.
163	Adam Voigts, Grandview	Chap 135-5, Landscape	135-5.9, 135-5.10, 135-5.11, Another concern we have is with the proposed landscaping requirements. We are fearful that a building remodeling project or some site work could require the need to bring parking lot landscaping and buffers up to the new standards and include bike storage. The new parking lot landscaping states that every stall shall be within 50' of a tree and that 30% of the pavement shall be shaded with tree canopy (based on mature tree size). This would impact most of our parking lots resulting in the loss of parking stalls and the cost to remove pavement and plant new trees. Also, there are requirements for volume of soil per tree and if that can't be met in an island then an aeration system must be installed for the tree. These requirements seem unnecessarily burdensome and costly.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

164	Adam Voigts, Grandview	Chap 135-5, Landscape	135-5.9, 135-5.10, In addition, buffers along parking lots will require a stone or brick retaining wall, a berm or a steel fence, trees and a continuous hedge. This will not be inexpensive. Also, there is more extensive screening for ground mounted mechanical units and trash enclosures. Again, these requirements seem unnecessarily burdensome and costly.
165	Adam Voigts, Grandview		While not specifically related to Grand View University, I would encourage the City Planning and Zoning staff and the City Council to consider the impact of these new zoning requirements on economic development in Des Moines. I would suggest that a third party study be conducted to show the financial impact of these new zoning requirements on new construction projects as compared to the existing zoning requirements and zoning requirements in other metro cities. My concern is that these new zoning requirements will drive up the cost of construction and will force developers and businesses to consider building in other metro cities with less burdensome and less costly building requirements. This will not be good for the City of Des Moines.
166		Nagle / Eagle Sign Co.	134-5.7.4, Nagle /Eagle Sign Co. Main Concern With The New Code Is Having To Put In So Much Concrete For Footings In When Installing A Monument Sign To Comply With The New Requirements. This Has Driven Up The Cost To Our Customers So Much Where Some Decide Not To Even Due A Monument Sign For Their Business
167	Darrell Gierstorf, DMPS		Public schools (P) designation is a much more diverse group than what the proposed zoning ordinance consists of. It crosses over into most all of the other zoning classifications and as such, there should be exceptions to allow for this diverse group of functions.
168	Darrell Gierstorf, DMPS		1. Assembly and meeting spaces for groups not classified as DMPS school functions.
169	Darrell Gierstorf, DMPS		2. Joint ventures with groups such as The Boys and Girls Club and as such, both designated space and building signage allowed which may exceed that as permitted by code, but is necessary to communicate the joint use of building.
170	Darrell Gierstorf, DMPS		3. Monument sign setback went to 20'. A variance procedure needs to continue in order to allow proper visibility of message where a 20' setback will not work.
171	Darrell Gierstorf, DMPS		4. School district has an AG program in conjunction with the FFA and as such has a livestock program. Provisions would need to be made for livestock associated with school functions to be allowed in the city limits.
172	Darrell Gierstorf, DMPS		5. Part of the AG program is plant science whereby the students produce bedding plants. Each spring they sell these bedding plants to the public and special provisions are required for sales and temporary customer parking.
173	Darrell Gierstorf, DMPS		6. Other programs hold special sales of items produced as well as concessions at events. Provision needs to be recognized for these sales.
174	Darrell Gierstorf, DMPS		7. Screening of mechanical units needs to be reviewed for reasonableness such as if a PL is backed up by a wooded area or industrial area, the need for screening cuts into the available dollars which could be spent on educational facilities in lieu of screens.
175	Darrell Gierstorf, DMPS		8. In association with screening of mechanical units, a provision should be to allow screens attached directly to mechanical units, thus eliminating additional penetrations through the roof membrane which can become the source of roof leaks.
176	Darrell Gierstorf, DMPS		9. Public schools need to remain safe and secure and as such, provisions should be made to eliminate any requirement for evergreen trees, which can become a source of places for a perpetrator to hide behind. All bushes are wanting to be of a variety which will not exceed 3' in height and all trees to be deciduous.
177	Darrell Gierstorf, DMPS		10. Trash enclosure requirements. Exceptions are required for those locations which have open area dumpsters, yet are not visible to any public right of way or adjacent neighbors. Construction requirements of trash enclosures should be lessened to be made more cost effective.
178	Earl Sengbusch	Map 1	I live at 3017 47th st Des Moines Iowa 50310. This is in Beaverdale and your new zoning says it is all N4 which is brick cottages. Now my house is almost 100 years old and is definitely not a brick house it is an old school 2 story that looks like a farmhouse. My question is that N4 says it will only allow C type houses which in the building materials description it says brick and mortar so if I ever decide to work on my house will it only be allowed if I switch to brick? Just so you know the overwhelming majority of houses on my street are not brick so why does the city say we are? My last comment is this: THE PUBLIC IN THIS CITY IS TIRED OF BEING TOLD WHAT TO DO BY A BUNCH OF OVERPAID BUREAUCRATS WITH NOTHING TO DO BUT MAKE OUR LIVES HARDER! Good day to you and your overpaid bureaucrats!
179	Becky Dewey	Chap 134-5, Signs	"Hello, I am a life long resident of Des Moines. I just wanted to voice my opinion about billboards around the area and my concerns with the potential change involving them in the new city plan. I have found billboards to be a lot more helpful and informative than distracting. They have brought my attention to local businesses I would have otherwise overlooked. In turn I have spent more dollars on local Des Moines based businesses rather than outsourcing my needs to online or suburb cities. I think the removal of digital billboards would hinder not only local businesses but the shopping experiences of Des Moines locals. Please reconsider the changes that are wanting to be made to billboards. Thank you!"
180	Martha Schmitt	Map 1	My home at 2406 Kingman Blvd is in the N2 area. Why is this the description is large lot with contemporary homes up to 2 families. These are not contemporary home but historic older single family homes. The three houses on Kingman were built between 1865 and 1905. What keeps someone from turning a house to multi family's? Please keep the provision that makes it illegal to convert single family home to multiple units. Also why is the block between Kingman and Cottage Grove 25 the street to 26th street MX1? These are similar houses.
181	Randall Damon	Chap. 135.4.1.1, Bicycle parking	General Comments: A statement of purpose specific to bicycle parking would be helpful at the outset in guiding these regulations. Below is an example from the city of Portland, Oregon, that is aspirational, forward-looking, and aims toward encouraging bicycle use. Additionally, statements of purpose for each sub-section would strengthen the language of those sections and act as regulatory guides.  Purpose: Bicycle parking is required for most use categories to encourage the use of bicycles by providing safe and convenient places to park bicycles. These regulations ensure adequate short and long-term bicycle parking based on the demand generated by the different use categories and on the level of security necessary to encourage the use of bicycles for short and long stays. These regulations will help meet the City's goal that 10 percent of all trips be made by bicycle.
182	Randall Damon	Chap. 135.4.5	Short-term bicycle parking. (from the city of Portland, Oregon) 1. Purpose. Short-term bicycle parking encourages shoppers, customers, messengers, and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles. Short-term bicycle parking should serve the main entrance of a building and should be visible to pedestrians and bicyclists.
183	Randall Damon	Chap. 135.4.5	Long-term bicycle parking. (from the city of Portland, Oregon) 1. Purpose. Long-term bicycle parking provides employees, students, residents, commuters and others who generally stay at a site for several hours, a secure and weather-protected place to park bicycles. Although long-term parking does not have to be provided on-site, the intent of these standards is to allow bicycle parking to be within a reasonable distance in order to encourage bicycle use.
184	Randall Damon	Chap. 135.4.5.1 MINIMUM BIKEPARKING RATIOS	Schools The school ratio of one space per classroom is too low, especially if we want to encourage our students to commute by bicycle. Furthermore, there should be consideration given to the differences between elementary and secondary. Older students are more likely to feel comfortable bicycling to school than younger students. Consider raising the ratios as follows: Grades 1 through 5: 2 per classroom.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			<p>Grades 6 through 12: 4 per classroom. Hospitals: Consider raising the minimum of Class A Bicycle Spaces to 0.125 per 1,000 square feet and 05 per 1,000 square feet for Class B Bicycle Spaces. Religious Assembly: Add a minimum of 0.125 for Class A Bicycle Spaces. Eating and Drinking Places: Class B Bicycle Spaces: Consider raising the ratio to 0.5 per 1,000 square.</p>
185	Emily Cory	Chap 134-5, Signs	Billboards have been a great way for local businesses to advertise their products and services. This helps to keep Des Moines' businesses thriving. Limiting the expansion/changes of billboards would be a huge hit to local businesses in our community.
186	Lori Cory	Chap 134-5, Signs	I really enjoy reading the billboards as I drive through Des Moines on 235 or on the north side of Des Moines on 35/80. To me, these billboards really show what the Des Moines community has to offer! Whether they are advertising the colleges in Central Iowa, the insurance businesses, churches, or local companies and stores, these billboards are a valuable asset to the general impression of Des Moines. I feel that people traveling through our state would have a pretty positive attitude about what we have to offer because of these billboards! I would like to see these billboards STAY on our roadways. Thank you for the opportunity to respond
187	Audrey DeVilder	Chap 134-5, Signs	Please consider keeping the same number of billboards in the Des Moines area. I think they are great, affordable advertising for the local businesses and a vital area of business for job seekers in the community. Thank you for your consideration.
188	Ben	Chap 134-5, Signs	I believe billboards are a great way to advertise on both sides of the equation. Create jobs and is a wonderful to get local business involved in the community
189	Eric Gross	Chap 134-5, Signs	I am in favor of the form-based zoning rules. I'm all for going back to the pre-1950s neighborhood setup.
190	Karen Lauer		I'm sorry if this is covered in the plan (I tried to find it, but couldn't search for it). I have lived in Cheatom Park for 11 years. My neighborhood is full of abandoned and condemned houses. Does this plan address the need for reform regarding property abandonment? Why is it okay to allow absentee owners to retain ownership of properties they do not maintain and allow to fall to ruin? I'm also concerned about a recent development regarding vacant lots. Over the past 2 years, someone has purchased vacant lots and planted them corner to corner with trees - my neighborhood needs affordable housing, not someone's misguided idea of "feeding the less fortunate." Please show that the city values all neighborhoods equally and do something to address these issues.
191	Cheryl		Is there a video of a presentation regarding PlanDSM that can be sent to us to watch?
192	Dan Knoup - Greater Des Moines HomeBuilders Association		I'll start by saying that what the city is doing here is fantastic and I commend you all for the undertaking. It does seem like there is some undue haste in moving forward with the process though. The staff has worked on this for 2 years so they are completely immersed in it and it's nuanced, why do the stakeholders only get 30 days to review it? When other large scale changes are made by entities like the DNR they reach out proactively for stakeholder input and feedback. This new ordinance and the potential non-compliance issues it will generate will likely have financing, property valuation and insurance repercussions that will likely take more than 30 days to assess. I've seen individual issues in here regarding the residential design standards regarding window installation & garages not extending in front of the main wall of a residence and it seems that these items should be discussed and vetted during the review process. I realize that there have been 2 workshops for public understanding and input but I respectfully request that this process be slowed down so everyone can truly understand how these changes will affect them and their projects/properties.
193	Shari Rogers	Chap 134-5, Signs	Larger cities have incorporated billboards into their footprint and they are very successful. Billboards are needed and a vital part of city's growth. Keeping the city fresh and current.
194	Justin Tew	Chap 134-5, Signs	Please include outdoor advertidings in the plan!
195	Julie Compiano	Chap 134-5, Signs	Please keep the billboards. I enjoy seeing them and knowing it took some thought and talent to create
196	Allan Demorest		I continue to have concern about the minimum size requirements for new building completely ruling out tiny houses or even those around 1500 sq. ft. as these are being considered by younger people starting out or even those serving the community whose starting salaries are in the first quartile. I also see no reason to require a shed being built on new property without a garage. The additional cost of construction by a builder will increase the cost over \$2000 when the owner could get a shed at a hardware or building supply store for much less. Housing costs in DSM are already out of reach for many.
197	Pam Carmichael, HOME Inc.		This is a comment on the new zoning maps. In doing infill development in the older, core neighborhoods (Capitol Park, Capitol East, Birdland, Mondamin/Presidential, King Irving, and Drake there are a number of lots that are smaller than the standard 50 x 150. Due to demolition there may be two vacant, small lots side by side (215 & 210 Watson, Birdland). For development purposes in distressed neighborhoods these lots these lots may be better suited for a duplex rather than a single family home. HOME, Inc. has encountered this issue in several of the neighborhoods listed above.
198	Dave Krogan	Chap 134-5, Signs	"The new plan doesn't seem to allow for expansion of outdoor advertising. Please include it, and thank you." "Please don't outlaw or restrict digital billboards in the new plan." "I see a lot of digital billboards with helpful information that serves our community. Please include them in the plan. Thanks!"
199	Ann Krogan	Chap 134-5, Signs	Actually, I appreciate the digital billboards as they can give helpful community info and can be updated fairly quickly if needed!
200	Kelsey Jacobs	Chap 134-5, Signs	Digital billboards add value to the community because they can be immediately updated with vital information. Please allow and include them in the zoning plan.
201	Dexter Jacobs	Chap 134-5, Signs	I see a lot of digital billboards with helpful information that serves our community. Please include them in the plan. Thanks!
202	Ginger Costanzo	Chap 134-5, Signs	We noticed that "digital billboards" don't seem to be allowed in the plan...we would like to see them included. Our family and people we talk to are all for that, especially those ads supporting small businesses in the city would be a good thing.
203	Dave McNelly	Chap 134-5, Signs	Billboards have long been a part of the american landscape and they are a valuable form of advertising for local small businesses.
204	Joe C	Chap 134-5, Signs	I like to see billboards with messages of interest or informative to things I like to do along with new companies and businesses in Des Moines. It doesn't look like the plan includes that.
205	Andrew Platner	Chap 134-5, Signs	Fewer restrictions on the Outdoor Advertising Industry would be a welcome addition to this plan. I believe billboard advertising provides an economic benefit to the greater Des Moines area. In addition I also believe billboards are a very viable and cost effective source of local advertising for individual's and business's alike.
206	Xan McNelly	Chap 134-5, Signs	This is in regard to my support of billboards whether it be traditional or digital billboards. I have been in the advertising industry for 30 years and have helped clients throughout Des Moines and Iowa build their brands with billboards being a key contributor in those efforts. They allow companies and brands to have a voice to grow their business in an affordable and attention-getting manner. The addition of digital has made it even more affordable for the smaller businesses to have an impact. They also provide an enormous amount of support to non-profits to promote their events and causes. I would venture if you calculated the support they have provided over the years it would rival other mediums. In addition, this is a business that employees a workforce that contributes back to the economic engine of this community and find it disconcerting that you would be willing to take that employment avenue away from those individuals.
207	Louis L Laurent	Chap 134-5, Signs	I am writing in opposition to a plan to limit outdoor advertising in Des Moines and in support of keeping both traditional billboards and digital billboards. As an 30- year owner of a Des Moines advertising agency, we use outdoor to reach disadvantaged populations with health messages like "Pick a Better Snack," Bets Off, tobacco prevention and the like. Without outdoor that population would not benefit from the information. Additionally, outdoor shows a city's creativity and vibrant business community, employs hundreds and gives small business an affordable voice. Thank you
208	Stephanie Preusch, NFC		1. In the N3a and N3b areas with House B regulations we are concerned how we will do infill on 50 ft. lots. Will 50 ft. lots be grandfathered in under the new 35 ft. minimum house width? If we are required to meet this standard the widest house

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			we will be able to build is 35 ft. wide, as well as the narrowest house will be 35 ft. wide. This seems like a difficult design situation. This will also be an issue with a 10 ft. Driveway poured on either end. Leaving only 5 ft. on the opposite side.
209	Stephanie Preusch, NFC	Chap 135-2.3.8	2. We have attached a photo of a home plan we currently build with a tuck-under garage. As we review the rules specified in 135-2-8, we are concerned that this plan would not be allowed because the garage doors are not a minimum of 3 ft. behind the main structure. This is more an item of clarification to make see if tuck-under garages will be treated differently.
210	Stephanie Preusch, NFC	Chap. 135-1.15	3. The requirements for dormers and gables on House C Building Type require at least one dormer or gable. We have attached a picture of a home we build with a large front porch and wonder whether the porch counts or if this plan would not be eligible in the areas where House C needs to be built?
211	Stephanie Preusch, NFC	Chap. 135-1.15	4. We have concerns with the Permitted Driveway Access for House C regulations that requires that driveways be poured off the alley is one exists. We are concerned that not all alleys have the necessary maintenance to be the primary entrance. There are issues with snow removal, rain and mud, and lighting/safety issues. Also, some alleys have garbage and debris and don't provide a positive entrance to a home for homeowners and guests.
212	Stephanie Preusch, NFC		5. We reviewed the requirement for a garage or large shed and feel this will be an expense that may possibly make some projects unfeasible financially. We are not taking an official position on this item because we also understand how this requirement may improve neighborhoods which is consistent with our mission of neighborhood revitalization.
213	Zam Lian Khai	Chap 134-5, Signs	I love Billboards company ( LAMAR ), It change my life alot . Billboards is my life too.
214	Steve Burke	Chap 134-5, Signs	It has come to my knowledge that digital billboards could potentially no longer be allowed in Des Moines. I have lived in Des Moines my whole life and watched this city go from a small, unassuming city to one that rivals the best cities in the country. This positive growth can be attributed to so many factors, not the least of which being anything that can stimulate economic growth. Advertising plays an important role in that growth. Businesses are always looking for ways to reach their clients in new and effective ways. The Des Moines area as of late has prided itself on becoming home to some of the largest technological companies in the world. Innovation is key to growth. Simple additions to cities like digital billboards can not only give that city a more innovative feel, but can also offer the opportunity for so many businesses to get their messages out to the growing population. It would be an absolute shame to listen to the few naysayers regarding digital billboards, and traditional billboards for that matter, and react with a rash decision to remove the growth of the billboard industry. Please think twice before taking away what is an important attribute to the growth of our great city!
215	Aaron Kautzky	Chap 134-5, Signs	I strongly encourage everyone to consider the consequences of removing all digital billboards in Des Moines. Countless local businesses, events and non-profits benefit from these structures - removing these boards hurts these organizations, their employees and families, as well as local residents and visitors.
216	Angie Platner	Chap 134-5, Signs	My family's livelihood depends on billboard advertising. Not only does this venue of advertising benefit my family, but it promotes economic growth in our community. Companies, both in and out of the metro area, advertise on billboards. They capture an audience that might not otherwise know of their company and services. Many times, I have contacted and utilized services of companies I learned of while driving through the metro. They gained my business specifically because I saw their billboard advertising.
217	Alex Welch	Chap 134-5, Signs	I think digital billboards should stay based on the value to small businesses. These billboards allow cheap advertising for our small businesses to get their word out and grow their customer base.
218	Steve Rupp	Chap 134-5, Signs	I see a lot of digital billboards with helpful information that serves our community. Please include them in the plan. Thanks!
219	Stephen J. Stimmel	Chap. 135-1.17.3 D	Following a very brief review of the zoning map and narrative drafts, I have one observation to offer in the roof types subsection, 1-35.1.17.3. D. It appears that the draft requires roof eaves that are a minimum of 12 inches deep beyond the face of the wall. From my perspective living in Beaverdale, many houses of the 1930s-1950s period were designed with limited or no projecting eaves. This lack of eaves, particularly at gable ends is a character defining feature that I believe should be permitted in modest historic neighborhoods constructed from the 1930s through the 1950s. Thanks for your consideration. Steve
220	Tom Baird	Chap 134-5, Signs	Please allow the use of digital electronic billboards. They provide useful information in a timely manner. Because one billboard can display many messages, the result will be that fewer billboards will need to be put up.
221	Joe Kelly	Chap 134-2.2.4	It may be useful to distinguish between mobile home parks and manufactured housing communities. If the development has more pre-1976 structures than manufactured homes, it would be designated as a mobile home park. If more of the structures are post-1976, then it could be designated as a manufactured housing community. You did a nice job in the definitions of individual manufactured and mobile homes. I think it would be good to carry that distinction through to the existing developments around the city. Thanks for your consideration. Joe Kelly Ex VP Iowa Manufactured Housing Association
222	Stephanie Moore	Chap 134-5, Signs	I would like to voice my concern for the proposal when it comes to billboards. Please include space for digital ad signage in PlanDSM. The expansion of outdoor advertising is important and needs to be included in your planning. While I find normal advertising on digital billboards helpful, they are also used for important community announcements and emergency information like wanted criminals or amber alerts. This information is critical for our community! Thank you!!!!
223	Jane	Chap 134-5, Signs	I wanted to comment on the proposal to ban billboards. I have always been impressed with the appearance of the billboards in DesMoines. I live in another area of Iowa and find that your billboards are helpful to me as I visit your community. I also get concerned about the impact on jobs in related to this decision in DesMoines,. Please reconsider and support billboards to continue to be utilized in DesMoines.
224	Mary Keables	Chap 134-5, Signs	Thank you for the opportunity for public input on the proposed billboard zoning ordinance. The visual clutter in the Merle Hay Neighborhood, particularly in the area around the intersection of Merle Hay Road and Douglas, is of great concern to us. At this point, it appears that city staff may be willing to advocate a ban on new digital billboards to the council. That is good, but it does not go far enough. I do not see a proposal to amortize billboards, as requested by our neighborhood and others. Billboard owners should not be allowed to keep their billboards in place forever. There should be a legal process whereby billboard owners would have a specified period of years to continue using their signs, and then they have to be permanently removed. Please carefully consider voting to officially enact billboard amortization. Too often, the Board of Adjustment has allowed variances - taller and larger digital billboards, etc. - than the city's billboard code stipulates. Once the new billboard zoning ordinance is enacted, it should be enforced. Thank you for working with the Merle Hay Neighborhood. Together we can do great things for our city. Mary Keables, Board Member Merle Hay Neighborhood Association
225	Carrie Mueller	Chap 134-5, Signs	Please do not restrict usage of electronic billboards in Des Moines. As a non profit organization, we rely on the cost effectiveness of electronic billboards to promote our community initiatives. They are a vital connector between the community and non profit organizations. Thank you
226	Kristin Carlson	Map 1	Dear Mr. Ludwig, My name is Kristin Carlson and I live at 315 37th Street in Des Moines. I am writing to you in regard to the proposed zoning of 316 and 230 37th Street. Currently 316 37th Street (Greenwood Elementary School and its back parking lot) and 230 37th Street (a grassy parcel of land adjacent to 37th Street) are both owned by the Des Moines Public School District and are zoned R1-80. All the surrounding residential parcels of land are also currently zoned R1-80. 230 37th is identical to the residential parcels that surround it. The zoning that is being proposed would reclassify these two parcels of land owned by the Des Moines Public School District to P2 and the surrounding residential parcels as N1a. The P2 classification would be a detriment to this neighborhood as it would allow development that would be very uncharacteristic of this historic and character-filled

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			neighborhood. I respectfully request that 230 37th Street not be classified as P2, but rather N1a. The close proximity of this parcel of land to such historic homes requires careful consideration. A P2 classification would have a significant impact on the form and character of this beloved neighborhood and would be a mistake. 230 37th Street should be consistent with the implementation of a character based zoning code. Thank you for your time and consideration of this important matter. Sincerely, Kristin Carlson
227	Nathan	Chap 134-5, Signs	I think there should be more bill boards placed to highlight local events and companies.
228	Zach Kautzky	Chap 134-5, Signs	I enjoy having nice digital billboards bringing quality products to my attention.
229	Susan Katelman	Map 1	Mr. Ludwig and Zoning Committee, We are writing to you as concerned citizens in regards to the proposed zoning changes for 230 37th Street in Des Moines. We live at 220 37th Street and strongly feel that the 230 37th Street lot should be classified N1a in accordance with the rest of the neighborhood property on this historic street with many old homes of character. The rezoning classification could be used for a number of things that are not visually esthetic for our neighborhood as well as potentially opening up safety and traffic concerns for our street. Our neighbor's home at 302 37th could potentially be surrounded on all four sides by cement. This is a home that has great historical significance built in the late 1800's that they have enhanced over the years with a great deal of time, money, and loving care. We respectfully request that you revisit the classification of 230 37th Street and change the district from P2 to N1a. Sincerely, Howard and Susan Katelman
230	Bruce and Elise James	Map 1	Mr. Ludwig, This email is regarding the proposed zoning of 230 and 316 37th Street. We live at 302 37th Street and our home was the first home built on 37th Street in 1878. The properties in question completely surround our home (to the north, west, and south). Our home and the home owned by Howard and Susan Katelman, which are the homes to the north and the south of the 230 37th Street property respectively, are both zoned R1-80 as are all other surrounding properties (including 230 and 316 37th Street). 230 37th Street is an 89 foot wide lot that sits in between our two homes. In a 1920 landscape drawing, that area is associated with our home and is referred to as "open lawn" and "party lawn." Sometime between 1900 and 1905, our home was actually on the 230 37th Street land and was moved to the north, to 302 37th Street. Under the proposed zoning districts, both 230 and 316 37th Street will be classified as P2 with the surrounding parcels classified as N1a. We strongly believe there has been a mistake in the classification of 230 37th Street. 230 37th Street is identical to the parcels that surround it. Given the significant differences in building regulations between a P2 and N1a district, the potential development of a parking lot, an entrance/exit on 37th Street, and a bus turn around/pick up lane for parents on this parcel (230 37th Street) would have a significant impact on the form and character of this historic neighborhood. Additionally, classifying 230 37th Street would be consistent with the implementation of a character based zone code. We are attaching a few photos of the 230 37th Street property in order to show that this land is completely surrounded by residential properties (there are large, beautiful, historic homes to the north, south, west, and across 37th Street to the east). We respectfully request that you revisit the classification of 230 37th Street and change the district from P2 to N1a. Sincerely, Bruce and Elise James
231	Brian O'Leary	Chap 134-5, Signs	The Douglas Avenue Coalition Board of Directors joins neighborhoods throughout Des Moines in once again calling upon the City of Des Moines to enact amortization provisions to require removal of non-conforming billboards by a date certain. Due to legitimate concerns about aesthetics, residential property values, and neighborhood vitality, we believe the city has an obligation to ensure removal of non-conforming billboards that are not allowed by current ordinance or contemplated in new zoning regulations, especially in areas where the signs are less than 500 feet from residential property lines. Thank you, Brian O'Leary President, Douglas Avenue Coalition <a href="http://www.DouglasAve.org">http://www.DouglasAve.org</a>
232	James Clark		If a property has an NX-1 district classification, does it allow extra flexibility, use and zoning options.
234	Carol	Chap 134-5, Signs	I am opposed to the zoning against digital billboards. How can we continue to attract the "Googles" of the world if do not present our community as being progressive and utilizing technology that is readily available? Needless to say they also provide a vital purpose to the community.
235	Jessica Hilbert	Chap 134-5, Signs	Love the digital billboards! Would like to see more!
236	Christopher Janson	Chap 134-5, Signs	Please consider including a mechanism for billboard amortization as part of the zoning and sign ordinance update.
237	Cheryl Hilbert	Chap 134-5, Signs	Please keep installing more digital billboards in the Des Moines metro. They're great!
238	Jeff Hove	Chapter 135 - 1.19.4(B)	Equipment (5) We suggest adding/allowing wall-mounted charging infrastructure as this technology allows for less expensive, commercial-grade, equipment and easier adoption for commercial and residential building owners.
239	Jeff Hove	Chapter 135 - 1.19.4(B)	Charging Station Signage (6) It stands to reason that signage will evolve rapidly and to dictate any language, now, is unnecessary. We suggest simply designating "EV Parking Only" and allow the site plan to determine needs of further language implying caution or instructions based upon environment and use-case.
240	Jeff Hove	Chapter 135 - 1.19.4(B)	Design (3) Suggest striking the exception for "1, 2, or 3 dwelling..." unless additional clarification can be provided for not including signage when a charger is available.
241	Jeff Hove	Chapter 135 - 1.19.4(B)	General Comments While we believe in the flexible and minimalist language in the draft document, we strongly urge you to further incorporate suggestions prescribed by the Des Moines Area MPO and the Iowa EDA.
242	Aaron Greiner and Sarah Pliziali	Chap. 134.3	In the Uses section (134.3) table on page (134-3-4) which notes that N 1 to N5 districts may have Short-Term Rentals under conditional use approval. We do not agree with allowing short-term rentals in N districts and would like that to be changed to not allow short-term rentals.  Following are our reasons why we believe short-term rentals are not appropriate for neighborhood districts N1 through N5. - Hotel/Motels are not allowed in N districts and short-term rentals such as Airbnb and Vrbo are unregulated, unmanaged hotels and as such should not be allowed. - Short-term rentals go against the City Council's objectives spelled out in PlanDSM which strive to preserve neighborhood character and provide safe neighborhood environments for families. Short-term rentals make us feel unsafe for our 3 year old daughter and dog when strangers and their dogs are rotating in and out of an Airbnb next to our home every 30 days. - Short-term rentals are disruptive to low density residential areas because they offer extremely cheap housing which increases traffic, encourage large group gatherings and parties, and disturb local quiet neighborhoods. If Short-Term Rentals are going to be allowed, they must meet a higher standard of conditions before being granted a permit than Hotel/Motels and true Bed and Breakfasts. Following are suggestions from our experiences with the short-term property that is adjacent to our home. - Short-term rentals must provide written consent from shared access property owners when the rental property shares a driveway or other access with an adjacent property. They must have written consent (above and beyond any easements) from the adjacent property owner to use their property for running the rental. We currently share a driveway with a short-term rental and since our easement was written in the 1930's it doesn't account for this situation and we have no say in how they use our property for their rental except that they cannot block our access to our property. - All short-term rentals must provide proof of liability insurance. - All short-term rentals must provide proof of a local professional property manager and contact information if there are issues. - The 30 day rental period needs to be reviewed and have an improved definition. Renting a property to new tenants every 30

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			<p>days is extremely disruptive and nearly as bad an experience as daily rentals.</p> <p>- There should be a policy for one strike and you're out so the city can enforce the code by quickly and easily revoking permits when violations occur.</p> <p>Ultimately, we have lost the friendly neighborhood feeling, sense of community, and security we once had in our home. Instead of being a comfortable, safe place for us, our home now makes us feel anxious and unsafe. Please remove the ability for property owners to take away our sense of security and community with short-term rentals in N districts.</p> <p>If you would like to discuss our concerns directly, please feel free to contact us.</p> <p>Thank you. Aaron Greiner and Sarah Piziali, 423 56th St, Des Moines 50312</p>
243	Mike Fitzpatrick	Map 1	<p>Hello Mr. Ludwig, My wife, Cynthia O'Brien, and I are writing in regards to the proposed zoning of 316 and 230 37th Street. We reside at 219 37th across the street and two houses down from the property. Currently the Des Moines School District/ Greenwood Elementary own these separate parcels and both are zoned R1-80. The homes that are adjacent and between these two addresses are also zoned R1-80. For context, 316 37th Street is the address for the physical school building and parking lot behind the school. 230 37th Street is a large undeveloped grassy area that fronts 37th Street. This parcel is surrounded by residential homes, including a residence at 302 37th Street that is sandwiched between the School District's 316 and 230 37th Street properties. Under the proposed zoning districts, both 316 and 230 37th Street will be classified as P2 and the surrounding parcels will be classified as N1a. We believe that there has been a mistake in this classification. 230 37th Street is identical to the residential parcels that surround it and given the significant differences in building regulations between a P2 and N1a district, the potential development of this parcel would be in direct view from our property and will create irreversible damage to this historic residential neighborhood. Additionally, classifying 230 37th Street would be consistent with the implementation of a character based zoning code. We would respectfully request that you revisit the classification of 230 37th Street and change the district from P2 to N1a. Thank you, Mike Fitzpatrick, 515-991-5395, brothertrucker@aol.com</p>
244	George Migliero	Chap 134-5, Signs	<p>In the recent proposal to change the city sign ordinance, it was brought to my attention that the proposal would ban all outdoor advertising and conversion to digital faces. My business depends on Fairway Outdoor Advertising. As a business owner in the Des Moines area, I strongly disagree with the proposal. To continue to run my business effectively, I need to be able to advertise and communicate in the most effective way to people who live and commute in the greater Des Moines area. I strongly discourage taking this option away from local businesses. Traditional media has changed in the past five years, which makes it harder for companies to reach new customers. By removing this option, you potentially remove customers from my business. Please keep in mind, local businesses draw people to our communities, offer jobs, and contribute to our economy. Outdoor signs are one of our best vehicles, for the money, to advertise.</p>
245	Don Hilbert	Chap 134-5, Signs	<p>Enjoy the digital billboards throughout Des Moines. Could use some more.</p>
246	Gary I	Chap 134-5, Signs	<p>I take strong exception with the proposal to restrict or prohibit electronic signage. Drivers are exposed to many so-called, potential distractions at any given time - - and to suggest that signage is any more of a distraction than say, a cell phone - - is a "stretch" at best. Electronic signage makes our downtown "sparkle." It is an excellent communications medium - - and is another stellar "sign" that Des Moines is a forward-looking, forward-thinking, high-tech yet high-touch community. And I think most of us would agree - - "that is a good thing." Thank you. Gary I.</p>
247	Kathleen Fehrman	Map 1	<p>I'm writing to you in regards to the proposed zoning of 316 and 230 37th Street. Currently the Des Moines School District/ Greenwood Elementary own these separate parcels and both are zoned R1-80. The homes that are adjacent and between these two addresses are also zoned R1-80. For context, 316 37th Street is the address for the physical school building and parking lot behind the school. 230 37th Street is a large undeveloped grassy area that fronts 37th Street. This parcel is surrounded by residential homes, including a residence at 302 37th Street that is sandwiched between the School District's 316 and 230 37th Street properties. Under the proposed zoning districts, both 316 and 230 37th Street will be classified as P2 and the surrounding parcels will be classified as N1a. I believe that there has been a mistake in this classification. 230 37th Street is identical to the residential parcels that surround it and given the significant differences in building regulations between a P2 and N1a district, the potential development of this parcel would have a significant impact on the form and character of our historic neighborhood. Additionally, classifying 230 37th Street would be consistent with the implementation of a character based zoning code. I would respectfully request that you revisit the classification of 230 37th Street and change the district from P2 to N1a. Sincerely, Kathy Fehrman, President Greenwood Historic Neighborhood Assoc.</p>
248	Jason Hilbert	Chap 134-5, Signs	<p>Let's keep the digital billboards they are the wave of the future</p>
249	Merle hay Neighborhood Association Board of Directors	Chap 134-5, Signs	<p>The Merle Hay Neighborhood Association Board of Directors recently passed the following resolution: "The Merle Hay Neighborhood Association Board of Directors joins other neighborhoods throughout Des Moines in once again calling upon the City of Des Moines to enact amortization provisions to require removal of non-conforming billboards by a date certain. Due to legitimate concerns about aesthetics, residential property values, and neighborhood vitality, we believe the city has an obligation to ensure removal of non-conforming billboards that are not allowed by current ordinance or contemplated in new zoning regulations, especially in areas where the signs are less than 500 feet from residential property lines." If city leaders do not believe there is sufficient case law in Iowa courts or the federal circuit to enact billboard amortization, the correct course of action is to seek legislative help from state lawmakers. Thank you for your consideration.</p>
250	Jason Pulliam	Chap 134-5, Signs	<p>It is imperative that city leaders find a way to amortize non-conforming billboards in Des Moines. In too many cases, billboards are located scarcely 100 feet from residential property lines. Apart from the aesthetic blight, billboards are also shown to drag down nearby residential property values. They drain too much from our neighborhoods and residents should not continue to pay the price for bad zoning of the past. Please give thoughtful reconsideration to the pursuit of billboard amortization. If necessary, please seek help from the statehouse. Thank you for your consideration. Sincerely, Jason Pulliam, 2327 49th Place, Des Moines, IA 50310</p>
251	Jason Pulliam		<p>Please hold owner-occupied housing to higher maintenance standards--similar to those outlined in the rental code. Things like peeling paint, detached downspouts, and roofs covered with tarps should not be allowed on owner-occupied housing, just as they are not at rental properties. Thank you for your consideration. Sincerely, Jason Pulliam, 2327 49th Place, Des Moines, IA 50310</p>
252	Jason Pulliam	Chap. 135-5.13 D and Chap. 135-5.13.4 C	<p>Please do not allow front-yard chain-link fences under the new zoning ordinance. Thank you for your consideration. Sincerely, Jason Pulliam, 2327 49th Place, Des Moines, IA 50310</p>
253	Ashley Aust, Hubbell		<p>See standalone document.</p>
254	Benjamin Bruner, Dickinson Law		<p>See below.</p>
255	JB Conlin		<p>o The new zoning ordinance provides a great deal of power to city staff, particularly the community development director, who is not appointed by the public.</p>
256	JB Conlin		<p>o The proposed ordinance is a large body of information with very significant changes to the zoning of many properties, the process for site plan approval, the zoning &amp; design requirements, and to the landscape requirements. Stakeholders need more time to review &amp; digest this document to better understand how these changes will impact the future of their investments. One month is not a sufficient amount of time for the review &amp; comment process.</p>
257	JB Conlin		<p>o It seems that the city has not taken appropriate measures to properly inform &amp; engage the public, specifically property owners &amp; key development players. When a project goes before P&amp;Z and/or City Council, the developer is required to directly notify the adjacent neighbors of the opportunity to participate in a public hearing. While there have been a few public hearings during the new zoning ordinance development, the city has not taken responsibility to directly notify property owners</p>

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

			of the opportunity to review & comment on the proposed zoning ordinance and the zoning changes being implemented. Such significant changes warrant a stronger communication process & transparency of the options available to participate.
258	JB Conlin		o When you look around the city at some of the most impressive development projects or landmark buildings, it seems that many of the design requirements per the new zoning ordinance would not be achieved even by the city's most adored projects. Take the Des Moines Central Library for example: it may be clad in glass, but during the day it has little to no transparency through that glass. Civic buildings are afforded the most flexibility under the proposed ordinance; however the existing library still would not meet the 12% transparency requirement. The new Kum & Go headquarters, another landmark project for Des Moines, will also not meeting several of the requirements.
259	JB Conlin		o The architectural design requirements are too specific and too regimented. Some requirements, such as specifications for shadow line locations and material transition requirements may limit the creative design process and have an adverse effect on the quality and variation of architectural styles in new buildings. More flexibility should be provided. The list of allowed building materials is very limited and there is no apparent process for seeking approval of alternate materials by demonstrating an equivalent level of quality and durability. A project should not be subject to a +60 day review process (Type 2 design exception) due the desire to use an alternate material of equal quality & aesthetic.
260	JB Conlin		o Consideration needs to be given to the level of hardship that property & business owners will incur due to the many small and irregular sites throughout the city that are not able to support the new zoning regulations. A landscape architect we work with recently attended a pre-app meeting and outlined the following scenario:  In the case of the property discussed at the pre-application meeting, the existing classification, C-1, would allow a typical retail, coffee shop or fast food restaurant under the current code. The City's new proposed district is MX2. MX2 requires a 3-story building type with 90% building frontage on the primary street. The site is 0.3 acres and will not support that size of building with the associated parking. Under MX2, the site will be very challenging to redevelop without multiple waivers.  The above example could have a significant impact on the value of this property. If this occurs on a larger basis, this could result in reduced taxation valuation and city revenues.
261	JB Conlin		o It important for property owners to closely review the new zoning maps and associated zoning changes that will come into effect. Many properties will no longer be in conformance and will require significant modifications for any future renovation or expansion. If these properties are not able to receive significant exceptions, this may either hold up future development/improvements or it will force smaller business & property owners out of Des Moines and to more pro-development suburbs. It is unfortunate to think that smaller entities and entrepreneurs may not have a chance at participating in the Des Moines real estate market.
262	JB Conlin	Chap. 135-6.2.1, 2	Site Plan Review Process:  o Design exceptions in general:  o Based on the following sections regarding the process for design exceptions (Ch.135), the proposed process for Type 1 exceptions is subjective to whether or not the owner & design team can successfully convince the community development director that the proposed design is at least equal.  o The highlighted language in Sections B & C below seems contradictory. The intent is to provide relief when strict compliance with the regulations are impractical or undesirable, however the applicant is burdened with proving that the proposed design exception would equal or exceed strict compliance. There will likely be many situations arising out this scenario where properties will not reasonably support the design regulations due to lot size (example above- MX1 on 0.3 acre lot), existing conditions, market conditions, and many other factors.
263	JB Conlin	Chap 135-6.1.6C	o Ch 135-6.1.6 (C): 60 day administrative review process for "public hearing site plans (type 2 design exceptions)" is followed by a requirement to resubmit revised site plans. The community development director (CDD) can then provide additional comments requiring further revision or establish date for a public hearing by P&Z.  o This could be more than a 2 month long process prior to approval for P&Z agenda, which is up to the discretion of the CDD/staff.  o It does not seem appropriate that staff gets twice as much time (60 days) to review 'type 2 exceptions' compared to the 30 day review for administrative site plans or 'type 1 design exceptions'. Since the application must provide detailed explanation of design exceptions (per Ch. 135-6.2.1 (D)), staff should not require such extensive time to review exceptions that they are authorized to approve.  o A timeframe for the second round of review & comments needs to be established. There should be a limit on this process to avoid staff dragging the applicant through a long process before establishing P&Z review.
264	JB Conlin	Chap 135-6.1.6	o There should be a process for an applicant to fast-track the process for being placed on P&Z agenda when design exceptions are clearly outside the scope of the CDD's approval and the applicant would prefer to seek approval from P&Z without a long negotiating process with the CDD/administrative staff (i.e. when the majority of the site plan is in compliance but there are a limited number of type 2 design exceptions that are non-negotiable due to specific project requirements)
265	JB Conlin	Chap. 135-2.2	Building Materials:  o Architectural metal panels should be allowed for a great area. Per this language, only 40% of a wall area, excluding glass, could be metal panel [see highlighted under (A)]. This is highly utilized, durable, and appealing material and should not be limited. Metal panel would be more appealing than Stucco! It is also more durable long term than many wood products.  o Fiber cement board is not mentioned, which should be allowed and is appropriate for buildings such as multi-family, hotels, retail, and several others. The Commercial Cottage building type especially should allow this material, since it is transitional between commercial & neighborhood areas. It does not appear to be allowed per these requirements.
266	JB Conlin	Chap. 135-2.2	Material transition requirements demonstrated in the graphic below are far overreaching. This type of regimented design requirement is frustrating and undermines the integrity of architects & design professionals. Also, these transitions don't make sense with most material thickness and installation techniques. The only way to achieve such depth variation is with frame of the building, which complicates the structural design and further adds to cost.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

267	JB Conlin	Chap. 135-5.12	The requirements below for mechanical equipment are going to be difficult to provide at the site plan approval stages. This information is typically not coordinated until the final building design is much further along. In the case of multi-family projects, it is unrealistic to feasibly meet many of these requirements, particularly under item (A).
268	JB Conlin	Chap. 135-4.5	Class A Bike Parking requirements (many of these are very excessive for small business or smaller projects to feasibly meet):  -Class A bike parking is an amenity and should not be enforced as a requirement for any project  -The bicycle protection also seems to add additional liability for property owners to protect property of others  -This is more excessive than protection provided for motor vehicles, which is not required
269	Heather Schafer	Chap. 134-3	In the Uses section(134.3) table on page (134-3-4) which notes that N1 to N5 districts may have Short-Term Rentals under conditional use approval. I do not agree with allowing short term rentals in the N districts and would like that to be changed to not allow short-term rentals. According to several resources I have researched: 1. Commercialized short-term rentals artificially inflate rental cost. <a href="https://news.vice.com/article/airbnb-will-probably-get-you-evicted-and-priced-out-of-the-city">https://news.vice.com/article/airbnb-will-probably-get-you-evicted-and-priced-out-of-the-city</a> 2. Commercialized short-term rentals make it less desirable for families to live in their current neighborhoods. 3. Short-term rentals can be disruptive to neighborhoods. Short term renters are not regulated nor managed and have no interest or investment in neighborhoods. 4. Commercialized short-term rentals are frequently operated without paying taxes that benefit the community and may operate without business licenses, hotel room tax, or proper insurance. Basically if I was considering purchasing a home I would not buy one that I knew was located near a short term rental, such as Airbnb. I believe it lowers desirability of a home which basically leads to lower values of homes and neighborhoods. I would also not want one to operate in my neighborhood. I specifically chose it because it is a quiet, low-traffic area with good neighbors who care about the quality of their homes and neighborhood. Thank You, Heather Schafer
270	R. Michael Hayes, Home Builders Association of Greater Des Moines		See standalone document received via email.
271	Bill Dikis, Capitol Planning Commission	Map 2	Hello, Michael Ludwig.  Because I have served on the Clive P&Z for several years, I appreciate what a big job it has been to develop this new proposal. It appears very thoughtful and well done. I have to admit I'm disappointed to see that an architect was not part of the steering committee, especially given the proposal for far-reaching design requirements.  One thing that puzzles me, though, as Chair of the Capitol Planning Commission, is why proposed zoning map 2 shows most of the Capitol Complex as P2 but the large block containing our buildings and land on the north side of Grand between E. 9th and E. 14th as RX-2 (and also several of our properties north of Des Moines St.).  As I understand, the zoning is somewhat irrelevant to what the State may choose to do with their properties, but the designation seems inconsistent to me.
272	Molly Hanson		I hope that the city recognizes the potential value of affordable housing and all the possible avenues to home ownership. I think tiny houses and intelligent planning and zoning that discourages gentrification is crucial to the continued success and growth of our city.
273	Elma Sinanovich, Fairway Outdoor Advertising		I wanted to see when the next Planning & Zoning meeting was going to be taking place.
274	Rod Kruse, bnim		Trying to better understand the proposed new zoning ordinance. I have to confess that I am quite troubled by the prescriptive nature of the Design Requirements. Lots of concerns and too many to try to discuss in an email. I would, however, like to understand more about the procedure if a project does not meet all the Design Requirements. So, a simplified question would be as follows: • We are providing design services for a proposed Downtown General Building Type • The design does not provide for a 12-inch plane change at the location of a material change - there are lots of design reasons to not provide such a plane change, but that is not the point for this conversation - maybe there is a reveal or some other means of addressing the change that is not within the 15% difference that could be approved by Staff as I understand it • What is the procedure for addressing this deviation the ordinance?
275	Thalia Sutton		Consider a Sound Reduction ordinance in the construction of buildings. As we increase the number and height of buildings while also making them closer together, we increase the risk of injuring the hearing of pedestrians. If you've never heard of this before, it is a legitimate problem in many big cities around the world, most notably Rio. The current emphasis on putting corrugated and other sheet metal on the outside of buildings downtown has given me room for concern. While slowing traffic can reduce the noise issue somewhat, the most effective means is simply to require that builders cannot put more than a certain percentage of metal on the outside of their buildings, and that the first three floors or so of their new building must have sound dampening grooves built into the exterior, like is done on the freeway.
276	Thalia Sutton		Similarly, consider light and shadow ordinances. Many cities in Japan require that a building must get the permission of all of its affected neighbors before it is allowed to cast a shadow on the neighbors' properties. It creates wonderful cities that are always sunny and inviting to be in, in which trees and plants can grow in public spaces. It also requires builders to create more interesting looking structures, which is always a plus. This will be especially important as developers seek to create taller buildings in downtown Des Moines. One of the reasons people hate being on Walnut Street is because it's one of the only urban canyons that Des Moines has. For examples of this issue on a more local level, however, consider Iowa City and what's called the Coalition Against the Shadow. The most popular downtown areas are generally ones with wide open public spaces that are sunny during the winter and shaded during the summer. But because of that exact popularity, builders want to put highrise luxury condos within those areas. Which creates shadows that, in the case of Iowa City, basically destroyed the features of the public plaza that drew people to that area in the first place. The public good of the many must always outweigh the private good of the few.

CITY OF DES MOINES  
 PROPOSED ZONING ORDINANCE  
 PUBLIC REVIEW COMMENT LOG

277	Thalia Sutton	<p>Widen the standard sidewalk width. In many parts of town, we can expect entire blocks to be remade within the next 5 or 10 years. I expect, for example, no part of Ingersoll to be unchanged (read: raised and redeveloped) in the next 10 years. This offers a wonderful opportunity to increase the standard sidewalk width to four people across or more.</p> <p>One of my greatest pet peeves about the East Village is that the sidewalk is only two persons wide. So if you have two oncoming groups, everyone has to walk in a single file line, which destroys your conversation and group unity.</p> <p>Or, if someone has a mobility issue, and is trying to go down the street on a scooter or wheelchair, everyone else on the sidewalk must move off the sidewalk to let them go by. This is highly unfriendly to pedestrian traffic, especially if you're a woman walking alone during bar crawl hours.</p> <p>And, what's more, if we truly get the amount of pedestrian traffic that Des Moines is hoping for in these downtown areas, we cannot afford to have sidewalks as narrow as they are now. It is simply antiquated.</p>
278	Thalia Sutton	<p>Similarly, consider increasing the sidewalk setback from the street for trees and benches. I'm not saying to make it so wide that it feels daunting, but to have some common sense in the understanding of how much space trees really need to avoid Urban Blight and urban canyons. There's no point in having trees if they're constantly sick and dying.</p>
279	Thalia Sutton	<p>While I find the city's desire to put buildings closer to the sidewalks for ease-of-use admirable, I think it is important to consider the safety aspects of this policy for residential ground floor buildings.</p> <p>There are several townhome clusters that have been created in downtown Des Moines in the last 5 or 10 years where the front of the building is directly on the sidewalk. That means people on the sidewalk can reach out and touch your living room window. And your front door. This is not safe. The effect of this is that everyone who lives in these 1st floor units has their curtains up all the time with no exceptions. That's a quality of life issue, if people do not feel comfortable using their windows.</p> <p>Furthermore, if you are a woman late at night trying to get your front door open either drunk, or with groceries, someone could come up behind you just walking by and violate you in some fashion. Perhaps fatally. And you would never see them coming. We have the privilege of these units being in good areas now, but we cannot assume that will always be the case, and must build accordingly.</p> <p>Living in New York City, one of the wonderful attractions of the town homes and brown stones was that they were set far enough back from the street to have small garden spaces. This meant they had trees, they had benches, they had a space for gardening for the resident that helped ease stress and improve quality of life.</p> <p>They also ensured enough light for the units in the building, space for trash receptacles, and they allowed multiple feet of space between the public sidewalk and private door so that people could remain safe when entering their homes. I think this lack of space is something that I am seeing abused in Des Moines and we need to make a code to fix it. For commercial, of course this is not an issue, but for residential, it should be an incredibly high priority.</p> <p>Also in line with this is that town homes should have back yards, even if small. These same town homes around Des Moines have other townhomes where a back yard should be. That's bad for snow removal but also property value in the long term. At the very least, such a building isn't a townhome but a condo, and should be classified as such.</p>
280	Thalia Sutton	<p>Consider also an ordinance that states that new buildings must have some sort of solar capabilities, and electric car hookups. You may have that already, I'm not sure, but the West Coast has been ahead of the curve on this, and there's no reason we can't do it too. I think it would bring Des Moines a lot of clout to do so.</p> <p>Of course, energy companies are always against people putting more energy into the grid themselves, but you must resist that tyranny. A great way to do this, and to ensure our future as a self-sufficient clean city, is to demand that all new buildings have some sort of solar collecting capacity on the roof, and also have electric car hookups in their parking spaces. This is especially true if it is a residential unit.</p>
281	Thalia Sutton	<p>Lastly, I want to talk about roads. Consider an ordinance that all new roads (not altered, but fully new) must have protected bike lanes. There's no reason we can't accommodate that, and in fact it should be our duty to do so.</p>

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

2719 Georgetown Avenue | Norwalk, IA 50211 | 515.991.4594 | www.RedLionRenewables.com

September 5, 2017

City of Des Moines

Planning and Zoning

Dear Board Members,

The proposed ordinance changes regarding solar installations (Section 135-1) will restrict the tasteful, practical, and cost-effective integration of solar in Des Moines. With solar being a relatively new and burgeoning industry in Iowa and Des Moines, costs have now come down to the point where many home owners, business owners, governments, public and private sector companies can benefit from solar in a financially responsible manner. Solar can reduce operating costs or small business and give them a better chance to succeed. Solar can improve/enhance the aesthetics of commercial and industrial properties. Solar is a cost-effective way for citizens to do their part in environmental stewardship and curbing climate change. Solar has so many benefits that we should not restrict the integration of it to a point where incoming businesses, residence, and property owners look elsewhere to plant their flag.

With over 9 years of solar installation experience and many projects that have been installed tastefully where others would not realize is possible, I make the following suggestions to Section 135-1:

E.2 – Flush mounted systems are noted to be less than 4 inches from the roof surface whenever possible. Comment: General industry practice is to have an air gap between the solar modules (solar panels) (either hot water or photovoltaic) of 2-4" to allow airflow and heat dissipation. Less than 2" may cause too much heat to build up in summer months. Add approximately 2" for the thickness of the solar panel and the structural racking brings the top face of the panel 6-8" from the surface of the roof. 4" may be acceptable from the bottom of the solar panel, but does not include the thickness of the solar panel. Per this rule, the typical installation shown here would not meet this requirement. (Photo shows a 1" extension on the flashing collar + 2.5" angle clip that holds the rail + 2" thick module frame making the top face of the solar panel at approximately 5.5" from the surface of the roof.)

E.3.b – Restrictions for heights of solar arrays. Solar arrays in the Des Moines area gain the most annual production tilted 30-35 degrees. Flat roofs that have other obstructions, e.g., AC equipment, fans, hoods, vents, are often better served with a racking system that places solar panels multiple modules high. The most commonly used solar panels on the market today are 72-cell configuration and are approximately 40" by 80". Placing just 1 row in portrait or 2 rows in landscape orientation at a tilt angle of 30 degrees would be allowed, however it would not leave the recommended 2" below the array for water movement and snow buildup. Many common racking systems are 3 or 4 in landscape such as shown in the photo below. Under the proposed rules, the arrays shown below would not be allowed even though they blend architecturally or are hidden from ground level.

E.5 Projection. This section would limit canopy projects. With solar panel dimensions of 40" x 80", only a single module wide would be allowed to for a canopy. The photo below shows a canopy placed in front of a glass front building with two solar panels providing electricity and shade as well as architecturally fitting in. Such installation would not be allowed by the proposed ordinance.

E.6. Signage. Although I can understand not wanting large signs being seen for advertising, we would prefer being able to place a nameplate sign, similar to a LEED building plaque, on such arrays to let people know who made such an installation possible. Most placards would be 8"x8". I would suggest limitation on signage over 12"x12" in size or eliminating this requirement altogether.

F.3. Solar Freestanding Heights. The most common freestanding racking system are 2- panels high in portrait mode. These are installed in a tasteful manner for residential, commercial, and agricultural uses. The top height of these is approximately 10-12', depending on how close to the ground the bottom edge is for mowing under. Many installations are recommended with the bottom edge at 3-4' above ground to allow mowing underneath the front edge with a riding mower. We find shorter clearances tend to get mowed less and more weed growth occurs. Such freestanding systems are also some of the most economical systems to install. Freestanding ground mount systems such as the ones shown below would not be allowed under the proposed ordinance.

F.3. continued - Additionally, integrated solar carports would not be allowed because of the height restriction. Parking lots are a prime location for integrating solar in such an unutilized space. Not only do solar carport canopies present an opportunity for clean renewable energy, they provide shade and weather protection for shoppers/patrons, and reduce light pollution as the parking lot lights are focused under the canopies. Again, we recommend removing the restriction.

F.5 Location. Limiting property owners to rear and side yards would eliminate the option for a 50-75% of homeowner or business owner to install solar. The building itself would shade solar for most property owners, and requiring the solar array to be in a backyard would eliminate most property owners with property on the north side of a street and for many on east- or west-facing streets because of shade from their property or neighboring property. For business owners, some of the appeal of solar is the advertising benefit of letting customers know they care about the environment, the next generation, and being good environment stewards. In such moving solar from a non-visible location eliminates the benefit. Additionally, some solar arrays have been created in artistic arrangements. Such aesthetically pleasing or artistically created installations as shown below would not be allowed under the proposed ordinance. We suggest eliminating this requirement.

F.8. Appearance. Most racking systems come as aluminum or galvanized steel to withstand outdoor elements. Optional black racking systems are readily available at a premium price. Custom painting adds considerable cost to a system. Additionally, depending on the color scheme of the building and landscaping, a different color than listed may be more aesthetically pleasing. Placing a color restriction may make a solar array unfeasible for some and may prevent from a color that would blend the solar array into the existing building and landscape color scheme. We suggest removing this restriction. As you can see, solar, like any building, can be installed in an aesthetically, tasteful manner. The eye is in the beholder. Adding restrictions to what looks acceptable, limits property owners (and tenants to an extent) ability to enhance the value of their property, demonstrate their commitment to environmental stewardship and responsible citizenry, limits the resulting job growth and business opportunity, and takes us further away from responsible future generation and family friendly environment Des Moines is becoming know for. Please consider these comments and remove the proposed restrictions.

Sincerely,

Terry Dvorak

CEO

Red Lion Renewables

---

The Des Moines Bicycle Collective advocacy committee has reviewed the proposed PlanDSM zoning updates. Our committee is forwarding these comments. You may possibly hear from individuals with additional comments.

Scott Bents, chair  
Dan Johannsen  
Jeremy Lewis  
Emily Richardson  
Carl Voss

#### **135-4.4.2 Car-Share and Bike-Share Service**

**B. The number of required motor vehicle parking spaces is reduced by 2 spaces for uses that provide space for a city-approved bike-share program facility with a minimum of 8 bicycle parking docks.**

Comments: As written, this only provides *space* for a bike-share station—no language states that the station needs to be installed or in operation. We suggest the language be strengthened: Parking credits withheld/finalized until the station is installed. Or, choose verbiage to your liking.

In addition, two auto parking spaces are generally enough space for at least 12 docks. Yes, even 13 docks. If you dedicate 2 standard parking spots (common size parking space of 9 ft. x 18 ft x 2 stalls) you would have 324 sq ft working space. A single-side station with 13 docks (9 feet wide including bike + backing-up space x 36 feet long=324 sq ft). We would be comfortable increasing the minimum to 10 docks—even 13 docks.

Further, we think you are aiming low for the credit/offset for a bike-share station. We suggest four auto spaces would be more appropriate. Please provide the developer with an incentive—not just swapping out two auto spaces for space for up to 13 bikes.

#### **135.4.5 Bicycle Parking**

*General comment:* As written, this section doesn't provide how to round up number of bike racks or bike parking spaces. One inverted U-type or an A-type structure generally supports two bikes. To that point, we also suggest adding details on the design of the bike rack. See comments below.

*Hospitals:* We suspect that we can all agree on one thing: Hospitals have a keen interest in improved public health—patients, visitors, and staff. So why is the bar so low for Minimum Spaces Required? We suggest raising the minimum of Class A Bicycle Spaces to 0.067 per 1,000 square feet and .0125 per 1,000 square feet for Class B Bicycle Spaces. For a point of reference, it appears (Polk County Assessor website) that the Mercy Medical Center has 1,140,062 finished square feet. The hospital minimum is worth more discussion.

*Religious Assembly:* No minimum for Class A Bicycle Spaces. Isn't it possible that staff may wish to pedal to work? A minimum of 0.125 seems reasonable for Class A Bicycle Spaces.

*Eating and Drinking Places:* Class B Bicycle Spaces appears to be low. We suggest 0.5 per 1,000 square feet (matches library or cultural exhibit). The proposed version doesn't suggest how Class B Bicycle Spaces installed in the right of way (think streets and sidewalks) could meet minimum requirements. Please consider adding language to address.

Please include airport bicycle parking in this section, to help employees and travelers who wish to bike to the airport. We recommend 0.125 per 1,000 square feet for Class A, and 0.25 per 1,000 square feet for Class B.

#### **135.4.3 General Bicycle Parking Design and Location Requirements**

*C. Bicycle parking spaces must be accessible.* Kent Mauck and Davis Sanders found a keen solution for bike storage a few steps down at the Harbach Lofts. They designed wheel troughs (three locations in the two buildings) with 7 steps to a landing, then 7 additional steps. We believe this is an acceptable solution for a few steps to a basement. Please consider embracing the concept. The McDonald's Cycling Center at Chicago's Millennium Park has a similar solution with lots of bike traffic. Wheel troughs provide a good compromise to 135.4.5.3.C, which requires that the path leading to bike parking has a slope less than 12%. We think local developers will appreciate this solution.

In addition, the proposed language doesn't address elevators to access bike parking. It's a fair assumption that "accessible without climbing stairs" includes elevator access. You may wish to clarify.

#### **135.4.5.4 Design and Location of Class A Bicycle Parking Spaces**

*General comment:* Currently, city staff doesn't allow developers to utilize space beneath first-floor stairwells as bike-parking spaces. Please reconsider. The space generally meets other access requirements for bike parking, and doesn't hinder access to stairs. Worried about bike riders knocking their heads on the back of steps or on utility pipes? Pad the steps or pipes. From conversations with developers, you will win supporters by approving these areas to Class A Bicycle Spaces in new developments and repurposed buildings. See attached photo as one example of stairwell space that could easily be fitted with bike racks (on floor or hanging from wall) to comply with Class A Bicycle Parking Spaces.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG



**Please Consider Adding The Following Details**

We ask you to include several key points from the 2007 Bicycle Parking Guidelines, approved in 2007 by the Trails and Greenways Committee and the Des Moines Parks and Recreation Board. (City Council received and filed.) We think the 2007 diagrams and key language—inverted U-type or A-type plus two points of contact—are essential. Indeed, inclusion of these details will assist property owners, developers, and architects. Most cyclists avoid the wave or rolling rack sometimes seen around the city. Why? This rack design doesn't offer two points of contact, which is especially important for bikes without a kickstand.

*From the 2007 Guide:*

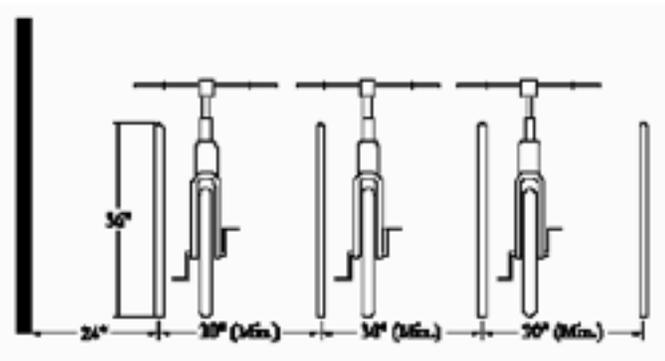
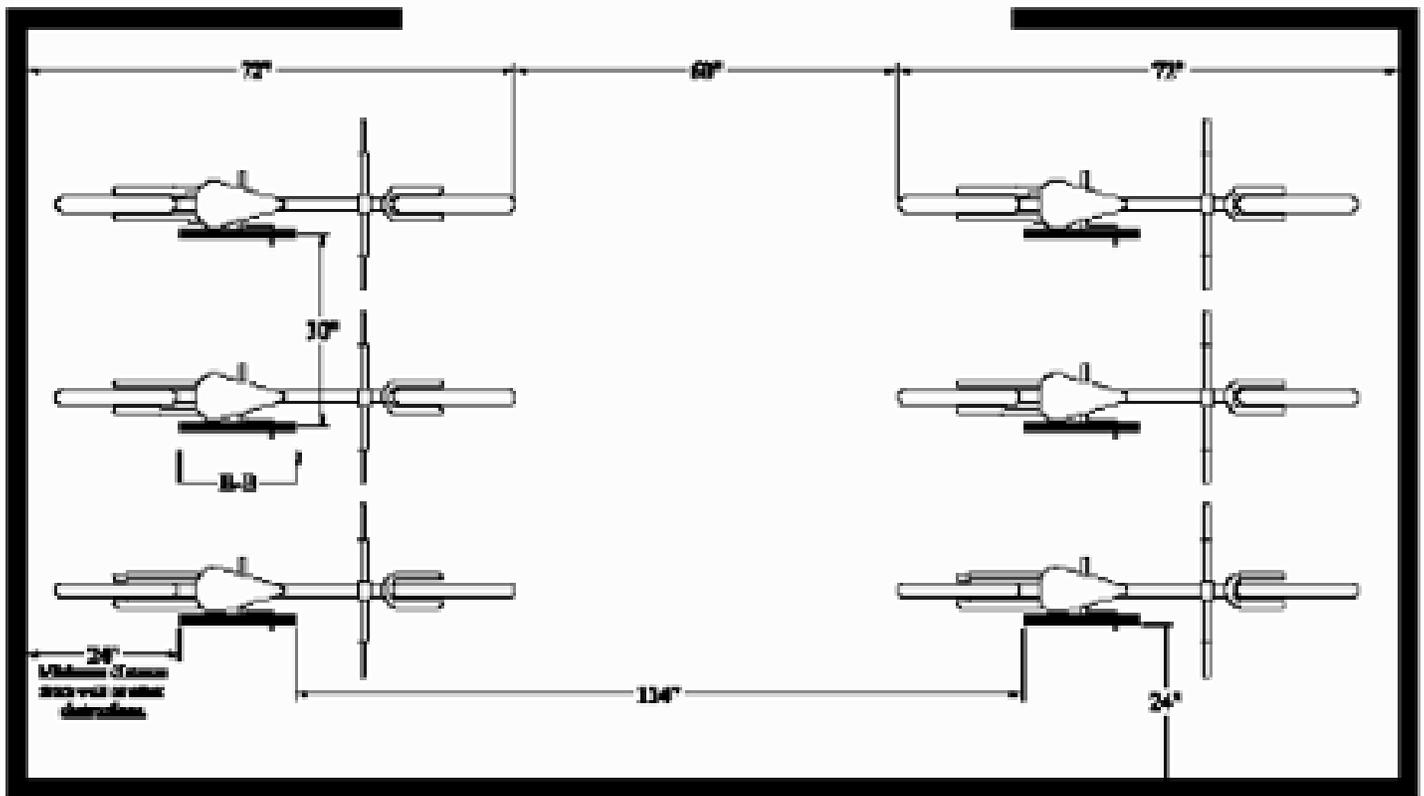
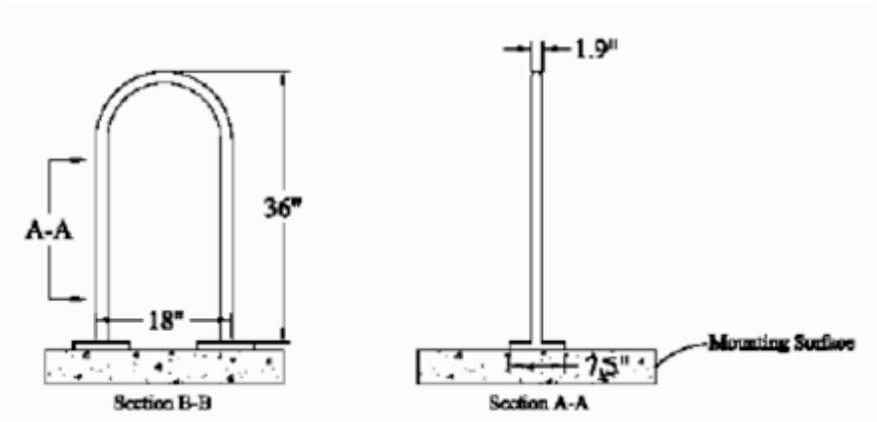
The parking device must be an inverted U-type or an A-type structure unless otherwise approved by the Parks and Recreation Department (update to whatever body now seems relevant). An approved list of usable structures can be obtained from the Parks and Recreation Department Planning Division (update). One (1) inverted U-type bicycle rack shall count for two (2) bicycle parking spaces (Diagram 1).

*Also from the 2007 Guide:*

Bicycle parking areas shall be easily accessible from all trails, sidewalks and other alternative transportation facilities. Access to bicycle racks from these facilities shall be direct and clearly designated.

We recommend including three drawings from the 2007 Guidelines.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG



CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

September 5, 2017

City of Des Moines  
Attn: Scott Sanders and Bob Blanchard  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309



Dear Scott Sanders and Bob Blanchard:

Thank you for all of the work that has been done and that you are doing on Plan DSM. Des Moines has transformed to a vibrant city to work, live and play, even being regarded as one of the Best Places to Live by *U.S. News & World Report* in 2017. Our goal is to continue to develop, build and redevelop communities where people want to live, work and play through developing great places to live for various target markets, promoting and expanding businesses, and providing arts, restaurants and recreation. We believe that this can be accomplished in the City of Des Moines by a collaborative effort by private and public stakeholders. We are submitting high-level comments to the Proposed Zoning Ordinance and Zoning Maps Draft dated August 3, 2017 ("Proposed Zoning Ordinance"). Due to the limited amount of time (and a holiday weekend) to effectively review the extensive amount of information with our stakeholder team and provide feedback on the Proposed Zoning Ordinance, these comments are incomplete and solely a high level review of concerns. We are working on additional detailed comments to the Proposed Zoning Ordinance and expect to have these additional detailed comments to the City by September 29, 2017. Hubbell Realty Company has been informed that there will be multiple comment periods before the Proposed Zoning Ordinance is submitted for approval by the City Council and has relied on the ability to have these additional comment periods.

**GENERAL COMMENTS:**

1. **Comment Period and Outreach.** The comment period of 30 days was not adequate for a comprehensive amendment to the zoning ordinance that has been in place for over 60 years. We request that the City provide 90 days for the review and comment on future draft(s) of the Proposed Zoning Ordinance. It is important that stakeholders and property owners have adequate time to review the extensive document and maps and provide effective feedback.

It appears that the public notice efforts of the substantial changes in the Proposed Zoning Ordinance were perhaps too limited. Most of the stakeholders we reached out to in order to include in our review team had no knowledge of the Proposed Zoning Ordinance or the comment period. We would recommend that the City consider more outreach and additional public notice to the Des Moines community such as mailings, emails, and newspaper publications. It seems critical for stakeholders in the Des Moines community to provide widespread, effective and confident feedback on such a substantial change.

2. **Implementation.** The Proposed Zoning Ordinance sets forth a challenging process for the implementation of the Proposed Zoning Ordinance as compared to the existing zoning ordinance. The Proposed Zoning Ordinance states that if buildings, developments or structures have a building permit then they can continue to build even if they do not comply with the Proposed Zoning Ordinance. This does not allow for the any property owner to be grandfathered in based on the timely submission of a rezoning application, conceptual plan, or site plan if that project does not have a building permit. There are several factors to obtaining building permits that are outside of the purview of this Proposed Zoning Ordinance and therefore a different standard for grandfathering properties needs to be part of the implementation of the Proposed Zoning Ordinance. Without a coordinated effort, development may slow in Des Moines as many developments may be relying on the current zoning ordinance for commencement of construction in 2018. It would be detrimental to these developments to be required to change the development to meet the Proposed Zoning Ordinance after they have relied on the current zoning code.
3. **Excessively Restrictive.** There are global concerns with the excessively restrictive nature of the Proposed Zoning Ordinance including, but not limited to, the minimum building height requirements, the

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

nonconforming uses and nonconforming buildings standards, and the increased requirement for retail space in downtown areas. The nonconforming minimum building height requirements and the nonconforming use designations will impede purchases and sales of property, and impact lending and financing of property. We have a grave concern that this may result in loss of tenants, higher vacancies, lower tax assessment value and thus lower the tax base for the City of Des Moines. We are concerned that the changes with regard to the minimum building height requirements, the use changes and increased nonconforming uses, and the increased requirement for retail space will result in property being rendered virtually useless. We have attached a case study of 601 SW 9<sup>th</sup> Street, Des Moines as an example to show the results of the restrictive nature of the Proposed Zoning Ordinance to that property with regard to tenants, financing, insurance and taxes.

With the excessive restrictive nature of the Proposed Zoning Ordinance, there are a significant number of properties that fall under the nonconforming building and nonconforming uses definition under the Proposed Zoning Ordinance including some of the most impressive and iconic projects and landmark buildings including the Des Moines Central Library and the new Kum & Go headquarters. There are no exceptions or pathways under the Proposed Zoning Ordinance for iconic and architecturally innovative buildings, nor does the ordinance support unique options.

With the excessive restrictive nature of the Proposed Zoning Ordinance, there are several businesses that fall under the nonconforming uses such as Confluence Brewery, Peace Tree Brewery, Dimond Bikes and other local employers and tenants that make Des Moines a great place to live, work and play. In addition, once a nonconforming use is changed, no matter how short of a period of time, then the nonconforming use cannot be re-established and is prohibited. If a tenant moves out of a space and therefore changes the nonconforming use, we cannot lease to a tenant with the same or different nonconforming use even if it fits the space. Therefore, we are concerned about increased vacant space due to the Proposed Zoning Ordinance which will deem properties virtually useless thus impeding purchases and sales, interfering with lending and financing of property, causing lower tax assessment values and lower tax base for the City of Des Moines. The City needs to collaborate with area stakeholders regarding the restrictions set forth in the Proposed Zoning Code to gain more input on the impact of these restrictions.

4. **Workload of Community Development Director.** The Proposed Zoning Code provides for the Community Development Director to review all zoning applications and submissions for approval. We are concerned that one individual responsible for all reviews and submissions for approval with regard to zoning will not be conducive to the maintenance of the current velocity of development in the City of Des Moines or future increases in velocity. By directing an individual there is potential for delays and backlog for reviews and submissions for approval. There is no required timeframe set forth in the Proposed Zoning Code for reviews, submission on agenda for approvals, or other processing of applications to ensure timely responses.

Thank you for your consideration of our comments and we hope to work with you on future changes to the Proposed Zoning Code.

Sincerely,

**HUBBELL REALTY COMPANY**

6900 Westown Parkway  
West Des Moines, IA 50266

CC: PlanDSM Steering Committee, Franklin Cownie, Bill Gray, Linda Westergaard, Christine Hensley, Joe Gatto, Chris Coleman, and Skip Moore

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

---



September 6, 2017

Mr. Bob Blanchard  
City of Des Moines  
400 Robert D. Ray Drive  
Des Moines, IA 50309

Re: City of Des Moines – Proposed Zoning Ordinance – Chapter 134 & 135 of City of Des Moines Municipal Code

Mr. Blanchard:

I am writing to you today in your capacity as the contact person for the City of Des Moines' proposed zoning ordinance implementing PlanDSM for the City of Des Moines. It is our understanding that the Public Review Draft comment period expires on September 5, 2017, and for that reason we are reaching out to you with our thoughts and comments regarding the proposed zoning ordinance as currently drafted and provided to the public.

The changes to the zoning code can, if adopted, have a significant and material impact on both existing property uses as well as the future development of real property located within the City of Des Moines. The proposed zoning ordinance significantly changes districts and creates new design requirements and new use requirements than what currently exist under the existing City Code. The material impacts these changes will have on real property currently zoned to allow for specific uses have not been explained to many property owners who would be shocked to find that their previously allowed uses are now non-conforming uses under the proposed code.

The buildings on these properties and the current uses of these properties will be able to fall under the non-conforming uses section of the proposed code, however, because the buildings cannot be rebuilt to its current state, additional insurance will be required for every property that is non-conforming to the proposed zoning ordinance because of the additional costs to build to the standards of the proposed zoning ordinance. In addition, there are concerns as to whether property owners will be able to obtain financings on such properties, as it is normal business practice for lenders to obtain zoning letters from the City. We do not know at this time if the non-conforming use insurance will be sufficient for the lenders to make loans for properties in the City of Des Moines impacted by these changes under the proposed zoning ordinance. In addition, no business can expand in its current location under the proposed zoning code under its non-conforming use, which may drive expanding businesses out of the City of Des Moines. Finally, if the building on a non-conforming use property is damaged or destroyed to the extent of Fifty Percent (50%) or more of its replacement, the non-conforming use and design cannot be re-established. Therefore, the businesses in these districts would not be able to rebuild their businesses and they would be forced to move or close. All of these concerns need further review

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

and it would be beneficial for the business owners to receive more information and have more time to review.

As the proposed zoning ordinance impacts properties owned or managed by Knapp Properties we have many concerns, which include, but are not limited to, the following:

- 1) 611 Fifth Avenue is denoted as the district to be known as DX2. As the owner goes to redevelop the building, we read the proposed zoning ordinance to require the owner to upgrade the exterior to DX2 standards. This will create several issues and impediments to redevelopment, the most apparent one being the requirement that Seventy Percent (70%) of the ground floor be glass enclosed.
- 2) The southeast corner of County Line Road and SW 9<sup>th</sup> Street is shown as MX1. The MX1 district under the proposed zoning ordinance allows business and professional office on upper floor only (so it would prohibit a stand-alone doctor or dental office) and does not allow fueling stations (even though there is an existing, relatively new fuel station that would become a non-conforming use.). To limit the uses in this way on this corner of the City of Des Moines does not seem to be a well thought out result in this change of uses.
- 3) Drive-throughs are not permitted in DX uses (420 Court Avenue has one), and not permitted in MX1 (so the property mentioned in comment 2 above would not be allowed one). These limitations on drive-throughs would negatively impact the value of these properties as many retailers entering the market require these types of drive-throughs, especially in MX1 districts.
- 4) The project at 420 Court Avenue, Des Moines would become a non-conforming use which will seriously impact the owners ability to refinance the project due to the concerns raised previously in this letter related to the expectations of lenders when financing non-conforming projects of this type.
- 5) The restrictions on housing are extremely difficult to understand. Row buildings have to have the garage facing the rear. Is this just along public streets? It is unclear. Row buildings have to be 2.5 story max which eliminates a popular housing model. House types C and D are allowed minimum use types of 1.5 stories to eliminate ranch homes, the single most popular style in today's market. Under building guidelines, windows have to be vertically oriented (135-2-5). This doesn't make sense with today's prairie/contemporary architecture. The requirement for garage door (135-2-8) recess is also overly restrictive given the housing in today's market. Taken in total many of the restrictions in housing development seem to move away from many of today's more popular forms of housing in the marketplace, which will have a material impact on any attempts to bring single-family homes to market in the City of Des Moines.
- 6) In Chapter 135-2-14, mechanical equipment in any building seems to eliminate any roof top equipment, even if appropriately screened. If that is true it will materially harm many forms of commercial development. Why not allow rooftop equipment if properly screened like all other areas of the metro.
- 7) In Chapter 135-3-6, cul-de sacs seem to be prohibited, unless absolutely necessary. This restriction is not in keeping with today's market. Overall, the large scale development

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

guidelines (connectivity, etc) don't seem to take into account topography and will make it very difficult to develop many locations within the City of Des Moines for single family housing.

In total, we are concerned with many of the requirements of the proposed zoning ordinance implementing PlanDSM. We look forward to the opportunity to discuss these concerns with City of Des Moines staff as we move forward so that the final proposed zoning ordinance is one that we here at Knapp Properties can support.

Best regards,



Stuart Ruddy  
General Counsel & Secretary, Knapp Properties, Inc.

cc: Roger Brown, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Glenna Frank, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Scott Sanders, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Michael Ludwig, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Gerry Neugent  
Bill Knapp II  
Chris Costa  
Aimee Staudt

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

#147

From: Lance Henning  
Email: lhenning@gdmhabitat.org  
Phone: 5154718686

Message:  
PROPOSED CODE IS AGAINST AFFORDABILITY -  
The proposed code will add significant costs to the residential building in Des Moines and falls far short of the following quote from PlanDSM: "All residents of Des Moines deserve a diversity of housing styles and affordability that meets their needs throughout their lives." - Erin Olson-Douglas, Economic Development Director, City of Des Moines.

It currently costs \$160,000 or more to build a new residential home in Des Moines. In most cases the house type required under the zoning require more façade area, more roof area, or both to build the same square footage and that will significantly increase costs and widen the affordability gap. With many of the urban neighborhoods having average assessed values well below \$99,000, it is a big leap to think that adding 20% or more to the building cost that is already 40% to 60% higher than the assessed value is going to bring good investment into the neighborhood. And with declining grant funding and federal funding its hard to see the City would have means to help off-set these higher costs. It is not new single family homes appraising at \$130,000 to \$150,000 that are negatively affecting the neighborhood valuations and character.

Some areas of significant costs:

ROOF PITCH – On 50 ft wide lots (very common in Des Moines as lots of records) there are neighborhoods where houses are significantly less than 35 ft wide, have a roof pitch less than 8/12 and are single story homes. An unscientific look of 96 random houses found Mondamin neighborhood had 60% one story houses and 72% with roof pitches at 6/12 or less. An unscientific look of 102 random houses found in MLK Jr Park neighborhood had 65% one story houses and 91% with roof pitches 6/12 or less. A steeper roof pitch is a \$4,000 to \$6,000 addition to the house cost.

Affordability Recommendation – Adjust zoning districts and house types to match the character of the existing neighborhood. In neighborhoods with a common existing characteristic (say 30% or greater of the houses) allow those traits matching the neighborhood to continue to be built. ...for example single story less than 35 ft of frontage with a roof pitch less than 6/12 should be allowed by standard code in neighborhoods such as Mondamin Presidential, northern portions of Drake, many areas on South side, MLK Jr Park, and some portions of Union Park.

HOUSE SIZE – By requiring larger frontages and/or steeper roof pitches it is creating more house. The code should provide opportunity to build less house. A large number of the consumers want a basement, want three bedrooms, and want a house they can afford....trying to insert design standards of a Prairie Trail development into a neighborhood with majority single story and lower roof pitches is not on the consumers list of wants.

Affordability Recommendation – Adjust zoning districts and house type to allow appropriate areas in the city with less house, not adding more. More districts need to have house narrower house widths that match the existing houses and lot sizes. Add a house type that would be smaller than any of the current proposed.

GARAGES – As is currently presented in the proposed code, there should be NO garage requirement in the code. It is a significant cost addition to creating housing. A single stall garage will be in the \$15,000 range with concrete, lights, building materials, gutters, siding type and color match to the house, and labor. Apartments do not have a garage requirement and the look of the stuff and vehicles in their large lots looks way worse than 95% of the items seen in residential yards. The common issues that take away from the look and care of a residential property is generally unrelated to garages and includes inappropriate items on a front porch, visible trash containers, over grown bushes, un-kept and beat-up fence lines, toys, bikes, parking in yards, and driving across yards. These are items that are not about garages. There are thousands of well-kept yards across the city that have no garage and there are hundreds of properties with garages that have multiple items listed above in view from the street and need the visible area cleaned-up. In many instances the houses with the “stuff” issues or issues listed above are the rental units. Don’t penalize and price out future homebuyers on issues that at the heart of it are not about garages.

Affordability Recommendation -Keep a garage requirement out of the code.

Lot of Record – Another thought, would there be a possibility of two standards in the zoning?...1) for new subdivisions that might be closer to the proposed code....2) for lots of record design requirements that match the existing character of the neighborhood

Thank you for taking the affordability and diversity of housing styles seriously. Please make the adjustments to the proposed code that will benefit the affordability AND keeps the character of existing neighborhoods. The current proposed code misses the mark.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

From: Stephanie Preusch  
Email: spreusch@neighborhoodfinance.org  
Message:

Thank you for the opportunity to provide our input into the proposed new zoning ordinance. NFC Properties LLC, a subsidiary of Neighborhood Finance Corporation, builds or renovates 12 to 15 homes a year. All of our activities are within the NFC lending area which is primarily the low and moderate income census tracts of Des Moines. All of our new construction is on infill lots.

Here are our concerns and comments after reviewing the proposed zoning ordinance:

1. In the N3a and N3b areas with House B regulations we are concerned how we will do infill on 50 ft. lots. Will 50 ft. lots be grandfathered in under the new 35 ft. minimum house width? If we are required to meet this standard the widest house we will be able to build is 35 ft. wide, as well as the narrowest house will be 35 ft. wide. This seems like a difficult design situation. This will also be an issue with a 10 ft. Driveway poured on either end. Leaving only 5 ft. on the opposite side.
2. We have attached a photo of a home plan we currently build with a tuck-under garage. As we review the rules specified in 135-2-8, we are concerned that this plan would not be allowed because the garage doors are not a minimum of 3 ft. behind the main structure. This is more an item of clarification to make see if tuck-under garages will be treated differently.
3. The requirements for dormers and gables on House C Building Type require at least one dormer or gable. We have attached a picture of a home we build with a large front porch and wonder whether the porch counts or if this plan would not be eligible in the areas where House C needs to be built?
4. We have concerns with the Permitted Driveway Access for House C regulations that requires that driveways be poured off the alley if one exists. We are concerned that not all alleys have the necessary maintenance to be the primary entrance. There are issues with snow removal, rain and mud, and lighting/safety issues. Also, some alleys have garbage and debris and don't provide a positive entrance to a home for homeowners and guests.
5. We reviewed the requirement for a garage or large shed and feel this will be an expense that may possibly make some projects unfeasible financially. We are not taking an official position on this item because we also understand how this requirement may improve neighborhoods which is consistent with our mission of neighborhood revitalization.

Thank you for the opportunity to respond and provide input into the process.



CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

From: Bruce and Elise James  
Email: bjames@dwx.com  
Message:

Mr. Ludwig,

This email is regarding the proposed zoning of 230 and 316 37<sup>th</sup> Street. We live at 302 37<sup>th</sup> Street and our home was the first home built on 37<sup>th</sup> Street in 1878. The properties in question completely surround our home (to the north, west, and south). Our home and the home owned by Howard and Susan Katelman, which are the homes to the north and the south of the 230 37<sup>th</sup> Street property respectively, are both zoned R1-80 as are all other surrounding properties (including 230 and 316 37<sup>th</sup> Street). 230 37<sup>th</sup> Street is an 89 foot wide lot that sits in between our two homes. In a 1920 landscape drawing, that area is associated with our home and is referred to as "open lawn" and "party lawn." Sometime between 1900 and 1905, our home was actually on the 230 37<sup>th</sup> Street land and was moved to the north, to 302 37<sup>th</sup> Street.

Under the proposed zoning districts, both 230 and 316 37<sup>th</sup> Street will be classified as P2 with the surrounding parcels classified as N1a. We strongly believe there has been a mistake in the classification of 230 37<sup>th</sup> Street. 230 37<sup>th</sup> Street is identical to the parcels that surround it. Given the significant differences in building regulations between a P2 and N1a district, the potential development of a parking lot, an entrance/exit on 37<sup>th</sup> Street, and a bus turn around/pick up lane for parents on this parcel (230 37<sup>th</sup> Street) would have a significant impact on the form and character of this historic neighborhood. Additionally, classifying 230 37<sup>th</sup> Street would be consistent with the implementation of a character based zone code.

We are attaching a few photos of the 230 37<sup>th</sup> Street property in order to show that this land is completely surrounded by residential properties (there are large, beautiful, historic homes to the north, south, west, and across 37<sup>th</sup> Street to the east). We respectfully request that you revisit the classification of 230 37<sup>th</sup> Street and change the district from P2 to N1a.

Sincerely,

Bruce and Elise James



This photo was taken in our front yard at 302 37th Street, looking at the 230 37th Street land and the Katelman's home to the south of the land



This is the view from 37th Street (facing west) on the 230 37th Street property



This is the view facing east on the 230 37th Street property

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

From: Benjamin Bruner, Dickinson Law  
Email: bbruner@dickinsonlaw.com  
Message:



**DICKINSONLAW**  
Dickinson Mackaman Tyler & Hagen P.C.

**Benjamin D. Bruner**  
(515) 246-4510  
bbruner@dickinsonlaw.com

September 29, 2017

*Via Regular mail and E-mail*

Mike Ludwig  
Planning Administrator  
City of Des Moines  
602 Robert D Ray Drive, 1st Floor  
Des Moines, IA 50309  
[mgludwig@dmgov.org](mailto:mgludwig@dmgov.org)

**Re: Proposed Municipal Code Comments (From QuikTrip Corporation)**

Dear City of Des Moines:

The undersigned is contacting you on behalf of QuikTrip Corporation, and in regards to the pending Public Review Draft of the City's Proposed New Zoning Code. We thank you for including QuikTrip Corporation in one of the "stakeholder" meetings during this process and we hope that the comments herein can help you improve the currently proposed "convenience store / fueling station" specific code sections.

In short, there are three major issues presented by the current draft of the proposed Zoning Code, which are 1) Building placement and orientation; 2) Parking space limitations; and 3) Site Access limitations. The currently proposed language related to these three items will undoubtedly chill any new development and redevelopment of existing stores by QuikTrip within the City of Des Moines. The reasons are as follows:

- A. Building Placement / Orientation: The proposed code provisions seek to require all store buildings to be located along street frontage on a corner of the site. Further, all pump stations and canopies would be required to be located in the rear or interior side yard of the site. From a safety, operational and profitability standpoint, these requirements are simply unworkable for a successful QuikTrip store.
- B. Access Limitations: It would appear that based on the proposed code provisions, each store site would be allowed, at most two driveways, and access on to "primary" streets is discouraged if not prohibited. Ease and quality of access is a key factor in the success of a store and accordingly the decision to develop or redevelop a site.
- C. Parking Limitations: It would appear that based on the proposed code provisions, and factoring in the current building size of the current generation of QuikTrip store, a new or redeveloped QuikTrip store would be limited to 16 parking spaces. This would wholly frustrate the safety, operations and profitability of any operation but

699 Walnut Street, Suite 1600, Des Moines, IA 50309

Phone: 515.244.2600

Fax: 515.246.4550

[www.dickinsonlaw.com](http://www.dickinsonlaw.com)

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

DICKINSON, MACKAMAN, TYLER & HAGEN, P.C.  
Mike Ludwig  
September 29, 2017  
Page 2

especially one that is vehicle oriented. This extreme limitation would appear to run contrary to the stated goal of accommodating business operations and public needs.

These design requirements and limitations appear to apply to any and all convenience stores / fueling stations regardless of the location of the sites within the city, which allows for no flexibility based on the area, neighborhood, district, etc. There are additional concerns with certain procedural proposals that could ultimately work to delay any development and redevelopment approvals and potentially drive up the costs related to the same. Further, certain proposed landscaping, buffer and streetscape requirements may be impractical and unworkable as written.

We'd respectfully ask that the above-referenced issues be addressed in the next draft of the proposed Code, and we'd be willing to discuss these issues in more detail to assist in a more workable Code for all. QuikTrip has a long history in the City of Des Moines, and hopes that there can be a long and mutually beneficial future. That said, key modifications to the proposed Code draft will be required to ensure the same.

Very truly yours,



Benjamin D. Bruner

BDB/rn

Document2

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

From: JB Conlin, Conlin Properties  
Email: [jbconlin@conlinproperties.com](mailto:jbconlin@conlinproperties.com)  
Message:

## Comments from Conlin Properties, Inc. and associated stakeholders regarding the Proposed Zoning Ordinance in the City of Des Moines

Submitted via email on 9/29/17 to [PlanDSM@dmgov.org](mailto:PlanDSM@dmgov.org) and Michael Ludwig ([mgludwig@dmgov.org](mailto:mgludwig@dmgov.org))

The City of Des Moines' proposal for major changes in the zoning regulations that have served it well for many years, have some very serious flaws. The changes that impact existing buildings, now being categorized as "nonconforming" are particularly troublesome. We operate in the multifamily sector and one of the City Council's stated goals has been to encourage owners to renovate and improve apartment buildings 20 years or older. These new requirements would make it next to impossible for owners to make these improvements economically and will stifle redevelopment.

We strongly oppose this new Form Based Code and the zoning changes. These new requirements hinder property owner's rights by significantly increasing the burden on owners to comply with a whole slew of new city government regulations. The consequence will be a slowdown in economic activity. Further, the types of projects that receive fast track approval are very limited. This process will result in a homogeneous and bland city landscape.

The new requirements complicate and lengthen the process for site plan approval. Many of the items of concern will also increase development costs. The timeframe for the design process will also need to be extended to allow both civil engineers & architects adequate time to digest the appropriate requirements, coordinate design efforts, and produce additional documentation for project submittals per the new requirements. Some of the new requirements, such as coordination of mechanical equipment and utility appurtenances on facades (Ch. 135-2.5.4), will require MEP consultants to join the design process at a much earlier stage. Typically such consultants or trades are not yet involved during the site plan approval process. Several of these new requirements add to the scope of the design stage, and will therefore add to the fees incurred by owners/developers.

### Significant points and examples:

- The new zoning ordinance provides a great deal of power to city staff, particularly the community development director, who is not appointed by the public.
- The proposed ordinance is a large body of information with very significant changes to the zoning of many properties, the process for site plan approval, the zoning & design requirements, and to the landscape requirements. Stakeholders need more time to review & digest this document to better understand how these changes will impact the future of their investments. One month is not a sufficient amount of time for the review & comment process.
- It seems that the city has not taken appropriate measures to properly inform & engage the public, specifically property owners & key development players. When a project goes before P&Z and/or City Council, the developer is required to directly notify the adjacent neighbors of the opportunity to participate in a public hearing. While there have been a few public hearings during the new zoning ordinance development, the city has not taken responsibility to directly notify property owners of the opportunity to review & comment on the proposed zoning ordinance and the zoning changes being implemented. Such significant changes warrant a stronger communication process & transparency of the options available to participate.
- When you look around the city at some of the most impressive development projects or landmark buildings, it seems that many of the design requirements per the new zoning ordinance would not be achieved even by the city's most adored projects. Take the Des Moines Central Library for example: it may be clad in glass, but during the day it has little to no transparency through that glass. Civic buildings are afforded the most flexibility under the proposed ordinance; however the existing library still would not meet the 12% transparency requirement. The new Kum & Go headquarters, another landmark project for Des Moines, will also not meeting several of the requirements.
- The architectural design requirements are too specific and too regimented. Some requirements, such as specifications for shadow line locations and material transition requirements may limit the creative design process and have an adverse effect on the quality and variation of architectural styles in new buildings. More flexibility should be provided. The list of allowed building materials is very limited and there is no apparent process for seeking approval of alternate materials by demonstrating an equivalent level of quality and durability. A project should not be subject to a +60 day review process (Type 2 design exception) due the desire to use an alternate material of equal quality & aesthetic.
- Consideration needs to be given to the level of hardship that property & business owners will incur due to the many small and irregular sites throughout the city that are not able to support the new zoning regulations. A landscape architect we work with recently attended a pre-app meeting and outlined the following scenario:

In the case of the property discussed at the pre-application meeting, the existing classification, C-1, would allow a typical retail, coffee shop or fast food restaurant under the current code. The City's new proposed district is MX2. MX2 requires a 3-story building type with 90% building frontage on the primary street. The site is 0.3 acres and will not support that size of building with the associated parking. Under MX2, the site will be very challenging to redevelop without multiple waivers.

The above example could have a significant impact on the value of this property. If this occurs on a larger basis, this could result in reduced taxation valuation and city revenues.

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

- It is important for property owners to closely review the new zoning maps and associated zoning changes that will come into effect. Many properties will no longer be in conformance and will require significant modifications for any future renovation or expansion. If these properties are not able to receive significant exceptions, this may either hold up future development/improvements or it will force smaller business & property owners out of Des Moines and to more pro-development suburbs. It is unfortunate to think that smaller entities and entrepreneurs may not have a chance at participating in the Des Moines real estate market.

**More detailed issues found regarding review process & design/site requirements (this list only scratches the surface):**

Site Plan Review Process:

- Design exceptions in general:
  - Based on the following sections regarding the process for design exceptions (Ch.135), the proposed process for Type 1 exceptions is **subjective** to whether or not the owner & design team can successfully convince the community development director that the proposed design is at least equal.
  - The highlighted language in Sections B & C below seems contradictory. The intent is to provide relief when strict compliance with the regulations are impractical or undesirable, however the applicant is burdened with proving that the proposed design exception would equal or exceed strict compliance. There will likely be many situations arising out this scenario where properties will not reasonably support the design regulations due to lot size (example above- MX1 on 0.3 acre lot), existing conditions, market conditions, and many other factors.

**6.2.1 DESIGN EXCEPTIONS GENERALLY**

**A. General.** This section establishes regulations governing the granting of requests for exceptions to the building type regulations of Chapter 135, Article 1 and design regulations of Chapter 135, Article 2. These design exception regulations are divided into two categories:

1. Minor, staff-approved exceptions, referred to as type 1 design exceptions (see 135-6.2.2); and
2. More significant type 2 design exceptions, which must be reviewed and approved by the plan and zoning commission (see 135-6.2.3).

**B. Intent.** The design exception provisions of this section are intended to authorize the granting of relief from strict compliance with the building type regulations of Chapter 135, Article 1 and design regulations of Chapter 135, Article 2 when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design exception provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and consistency with the comprehensive plan.

**C. Burden of Proof or Persuasion.** The burden is on the applicant to demonstrate that the requested design exception meets the criteria for approval or demonstrate that the result of the design exception would equal or exceed the results of strict compliance with the subject regulation.

**D. Applications.** Requested design exceptions must be noted on the required application and plan, and the application must include a written statement describing why the exception is necessary and all efforts to mitigate any adverse impacts resulting from a grant of the exception.

**6.2.2 TYPE 1 DESIGN EXCEPTIONS**

During the site plan review process, the community development director is authorized to approve the type 1 design exceptions of this subsection (135-6.2.2) and those expressly authorized elsewhere in this chapter, based on consideration of the general intent statement of section 135-6.2.1-B.

- Ch 135-6.1.6 (C): 60 day administrative review process for "public hearing site plans (type 2 design exceptions)" is followed by a requirement to resubmit revised site plans. The community development director (CDD) can then provide additional comments requiring further revision or establish date for a public hearing by P&Z.

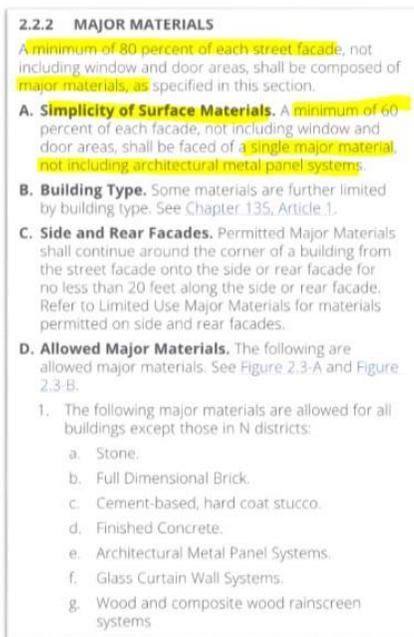
CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

- This could be more than a 2 month long process prior to approval for P&Z agenda, which is up to the discretion of the CDD/staff.
  - It does not seem appropriate that staff gets twice as much time (60 days) to review 'type 2 exceptions' compared to the 30 day review for administrative site plans or 'type 1 design exceptions'. Since the application must provide detailed explanation of design exceptions (per Ch. 135-6.2.1 (D)), staff should not require such extensive time to review exceptions that they are authorized to approve.
  - A timeframe for the second round of review & comments needs to be established. There should be a limit on this process to avoid staff dragging the applicant through a long process before establishing P&Z review.
- There should be a process for an applicant to fast-track the process for being placed on P&Z agenda when design exceptions are clearly outside the scope of the CDD's approval and the applicant would prefer to seek approval from P&Z without a long negotiating process with the CDD/administrative staff (i.e. when the majority of the site plan is in compliance but there are a limited number of type 2 design exceptions that are non-negotiable due to specific project requirements)



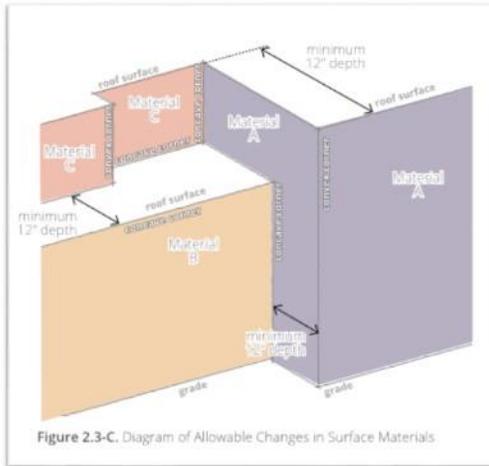
**Building Materials:**

- Architectural metal panels should be allowed for a great area. Per this language, only 40% of a wall area, excluding glass, could be metal panel [see highlighted under (A)]. This is highly utilized, durable, and appealing material and should not be limited. Metal panel would be more appealing than Stucco! It is also more durable long term than many wood products.
- Fiber cement board is not mentioned, which should be allowed and is appropriate for buildings such as multi-family, hotels, retail, and several others. The Commercial Cottage building type especially should allow this material, since it is transitional between commercial & neighborhood areas. It does not appear to be allowed per these requirements.



CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

Material transition requirements demonstrated in the graphic below are far overreaching. This type of regimented design requirement is frustrating and undermines the integrity of architects & design professionals. Also, these transitions don't make sense with most material thickness and installation techniques. The only way to achieve such depth variation is with frame of the building, which complicates the structural design and further adds to cost.



The requirements below for mechanical equipment are going to be difficult to provide at the site plan approval stages. This information is typically not coordinated until the final building design is much further along. In the case of multi-family projects, it is unrealistic to feasibly meet many of these requirements, particularly under item (A).

**2.5.4 MECHANICAL EQUIPMENT AND UTILITY APPURTENANCES ON FACADES**

Mechanical equipment and utility appurtenances shall not be located on a facade unless the applicant demonstrates that locating the equipment in a different location would conflict with the equipment's function. Any equipment or appurtenance approved on a facade, such as but not limited to dryer vents, gas meters, and air conditioners, shall be located consistent with the following standards:

- A. Facade.** The mechanical equipment may be located on a primary facade only if the following requirements are met:
1. The equipment is located on a surface perpendicular to any right-of-way;
  2. The equipment extends from the facade surface no more than 3 inches; and
  3. The equipment is screened from the sidewalk.

**B. Alignment.** Multiple pieces of mechanical equipment shall be organized on the facade in a regular pattern and aligned. Compliance with this standard must be illustrated on the drawing elevations submitted as part of the application.

**C. Material Coordination.** To the extent practicable, facade-mounted mechanical appurtenances shall be located on a material that limits their visibility. For example, dark colored vents will be more visible on light colored stucco than a textured, darker surface such as brick.

Parking lot tree requirements:

CITY OF DES MOINES  
PROPOSED ZONING ORDINANCE  
PUBLIC REVIEW COMMENT LOG

**B. Tree Requirements**

1. 50-foot Rule: Each parking space shall be located within 50 feet of a tree planted within the parking lot interior.
2. 5-Space Rule: For parking lots with more than 40 spaces, a minimum of 1 shade tree for every 5 parking spaces shall be planted within the parking lot interior or within 4 feet of the parking lot's edge.
3. Buffer Trees: Trees within any required buffer area may not be utilized to meet these requirements.
4. Shading Requirement: At maturity, tree canopies shall shade a minimum of 30 percent of the interior of the parking lot. Refer to Table 5.4.2 for mature canopy sizes.

Class A Bike Parking requirements (many of these are very excessive for small business or smaller projects to feasibly meet):

- Class A bike parking is an amenity and should not be enforced as a requirement for any project
- The bicycle protection also seems to add additional liability for property owners to protect property of others
- This is more excessive than protection provided for motor vehicles, which is not required

**C.** Class A bicycle parking spaces must protect the entire bicycle, its components and accessories against theft and inclement weather, including wind-driven rain and snow. Acceptable forms of protection include (i) individual bicycle lockers, (ii) attended parking areas, (iii) monitored parking areas, (iv) restricted-access parking areas, or (v)

**D.** Except in the case of bicycle lockers with a separate access door for each bike or attended facilities, all Class A bicycle parking spaces must be designed to allow bicycles to be securely locked to a bicycle rack.



September 29, 2017

City of Des Moines  
Attn: Scott Sanders and Michael Ludwig  
400 Robert D. Ray Drive  
Des Moines, IA 50309

Re: Comments on Proposed Zoning Code Changes

Dear Gentlemen:

The Home Builders Association of Greater Des Moines represents over 500 builders, developers and associates in the Greater Des Moines area. Our members have been building homes and multi-family housing since HBA's inception in 1944. These members are, together with commercial builders and developers, those that will be most affected by the changes being proposed by the new zoning ordinance. And those impacts are substantial.

To provide detail and specifics to our concerns, we requested Michael Hayes, of the Belin Law Firm, to do a detailed analysis of the impact of the changes to home builders in the City of Des Moines. Michael, a former city attorney for Des Moines and legal counsel for Hubbell Realty for over 20 years, has spent his professional life reviewing, operating under and litigating various aspects of zoning codes in Des Moines and elsewhere. His years of experience make him imminently qualified to opine on the proposed changes.

### **IMPACT OF NONCOMFORMANCE**

As detailed in the Report, the changes being proposed, if adopted, will have a significant and material impact on existing property uses and existing buildings that have been platted for development based upon certain understandings about how they can be developed. Going forward, the proposal will place every property within the City into a new zoning classification. The permitted building regulations will change for most properties. The permitted uses will change for many properties. In many cases, these impacts will adversely affect the property in that these revisions make a significant number of existing buildings and existing uses non-conforming buildings and uses.

As discussed more fully in Mr Hayes' Report, the result of declaring property non-conforming may be to make it more difficult to finance or sell that property, may increase the insurance costs on improvements on such property and may reduce the market and taxable value of such property. The City should require a report from City staff indicating how many buildings will become non-conforming and how many properties will have non-conforming uses as a result of these proposed changes and should receive that report before holding public hearings on adopting a proposed new zoning ordinance. It should be a requirement with respect to each particular change of zoning classification, change of use restrictions and change of building regulations that there be an accompanying report as to how many properties will be made non-conforming by each such change. Indeed, to justify such rezoning, the City needs to show why it determined it is in the best interest of the City to create such non-conforming uses. See *Molo Oil Co. v The City of Dubuque*, 692 N.W.2d 686 (Iowa, 2006).



### **IMPACT OF DELETING PUD DESIGNATION**

We would note that currently, there are a number of plats in the City that have already been approved for projects that were not zoned as PUDs, for which all lots have not yet been developed. In many cases, these proposed new zoning regulations will not allow the remaining lots to be developed with houses of the same type as have currently be developed in such plat. The City should require a report from City staff indicating how many such plats have remaining undeveloped lots and comparing the existing zoning regulations in each such plat to the proposed rezoning before the City holds public hearings on the zoning regulations and on adopting a zoning classification and primary street designation application to such plats. Without that information, the City Council cannot determine the most appropriate new zoning classification to which such plat should be rezoned and cannot determine which streets or portions of streets within such plat should be classified as primary streets.

### **IMPACT OF STREET DESIGNATION**

A significant number of the proposed building regulations in Chapter 135 are dependent on whether a building will have frontage on a primary street. Section 135-1.1.6(A) states the primary streets are to be shown on a primary street map, but there is no existing proposed primary street map. Therefore, it is not possible for property owners to fully understand how the proposed rules will affect them until they can determine if their property fronts on a primary street. Furthermore, the City will need to adopt and amend the primary street map in the same fashion that it adopts and amends the zoning classifications applicable to a particular property. It will be necessary to have the primary street map before it can schedule public hearings on this proposed new zoning ordinance. The comment period on the draft ordinance should be extended to at least 60 days after a proposed primary street map is made available to the public for review and comment.

### **IMPACT OF LIMITING DESIGNS**

The proposal significantly limits many design options in a manner that is both disturbing and counter-productive. For example, despite the market's desire for ranch homes, those structures are prohibited in most parts of the City. Given the preference for these homes by owners, particularly older consumers, this would seem to be unjustifiable and arbitrary. Likewise, the changes to building heights, yard setbacks and garage types and locations do not reflect the modern consumer. Des Moines, known for its unique and diverse neighborhoods, will be forced into a compliance scheme that is a throwback to homes of eighty years ago in many locations. There is, and should be, room for differing tastes. These revisions will prevent such considerations. Each design change should be revisited and an explanation provided as to why the proposal advances a goal the City has identified.

**Home Builders Association of Greater Des Moines**

6751 Corporate Drive, Johnston Iowa 50131

Phone: 515-270-8500 Fax: 515-334-0135 Email: info@dsmhba.com



### **IMPACT OF UNINTENDED CONSEQUENCES**

Making wholesale zoning changes in a way that affects current development will result in instability for a development to complete the project with homes that fit with the existing homes. Perhaps most alarmingly, the vast number of properties, both residential and commercial, that will become non-conforming (use, building or both) will greatly impact financing for Des Moines construction (but not in the neighboring cities). Additionally, the property value of such structures will necessarily drop, to the detriment of both the owner and the City. A review of each proposed change should be made to determine if the unintended impacts of the changes will actually work to the detriment of both the developers and the City.

HBA of Greater Des Moines does not know the rationale for this proposal to completely eliminate the existing zoning plan and substitute a new one affecting every parcel of land in the City. Our members do know that such wholesale revision to a regulatory scheme that has operated for many years is likely to create many more problems than it solves. We believe that has happened in this case.

We appreciate the invitation to make comments before the public hearing process. We provide the attached Report as major comments and concerns that we have been able to identify at this time. HBA of GDM encourages the City Council to delay further consideration of the ordinance to give additional, necessary time to fully understand the impacts of the myriad changes being proposed. We ask that consideration be given to implementing each solution proposed by Mr. Hayes. And finally, we request that the City divide the ordinance into smaller pieces for review, with a concrete and articulated reason provided for each change. We fully understand that there will be disagreement on what is appropriate but, without understanding the need for a change, it is impossible to know what needs to be changed.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel E. Knoup", is written over a blue horizontal line.

Daniel E. Knoup  
Executive Officer, Home Builders Association of Great Des Moines

cc: Plan DSM Steering Committee  
Des Moines Planning and Zoning Commission  
Mayor and Members of the Des Moines City Council

(2787443)

# **REPORT**

## ***Analysis of Proposed Municipal Code Chapters 134 and 135 to amend and replace the existing Zoning Code for the City of Des Moines, Iowa***

**By**

R. Michael Hayes  
Belin McCormick, P.C.  
666 Walnut St., Suite 2000  
Des Moines, IA 50309

**On behalf of**

Home Builders Association of Greater Des Moines  
6751 Corporate Drive  
Johnston, Iowa 50131

**September 29, 2017**

## **Introduction**

This Report was prepared at the request of the Home Builders Association of Greater Des Moines. It analyzes the cited provisions of the August 3, 2017 draft of the City of Des Moines, Iowa proposed Municipal Code Chapters 134 and 135 to amend and replace its existing zoning code. The intent of the Report is to provide an analysis of proposed changes affecting home builders and residential developers, the effect of those changes and legal issues arising from the changes. This Report is not an exhaustive review of all provisions that may be of concern to home builders and residential developers. This proposed ordinance is such a radical change in the framework and rules that are proposed to govern development going forward and contains substantial and detailed changes in zoning classifications, bulk design regulations and procedures for plat, site plan and building review. Each re-reading of the draft ordinance has revealed new issues, concerns and questions that may materially and adversely affect home builders and residential lot developers. The home builders and residential developers reserve the right to raise additional issues, concerns and questions throughout the hearing and review process before any ordinance is adopted. Many issues may not become apparent until home builders and residential developers attempt to work under whatever final version of a revised zoning ordinance may be adopted. The hope is that the City will work collaboratively with the home builders and residential developers to devise an ordinance that makes Des Moines a desirable market in which to develop and build residential communities, houses, townhomes and apartments that the marketplace wants to buy or rent and that are affordable to its residents and prospective residents.

At the request of City staff, suggested solutions to identified issues have been included where feasible. The identification of a solution does necessarily mean that the home builders and residential developers agree that ordinance should be revised with respect to the matter proposed or that the underlying concept should be included a revised ordinance. In some cases it is an attempt to make a provision workable, or at least less adversely harmful, should it be included in the final ordinance.

## **I. Home Building Issues**

### **A. The New Building House Types severely restrict development of single story houses.**

The single story house is the product most in demand in the Des Moines market place. For example, 25 of the 39 single family building permits issued in August 2017 were for single story homes. Similarly, in the 45 lot Culver Ridge Estates Plat 1, 29 of the 39 homes built to date are single story homes. In addition, almost every one of these, except possibly on a corner lot, has an attached 2-car or 3-car garage with its entrance along the front façade of the house.

The proposed zoning regulations severely restrict where ranch homes can be built as they are limited to the following districts and have other regulations that will substantially increase the cost of those single family homes that can be built:

1. A single story House A Building Type can only be built in the N1a and A districts. The applicable bulk regulations require lots with at least 80' of width, a minimum 45' front yard setback, a minimum 30' rear yard setback, and it is ambiguous where the side yard minimums are 25' or 30'. A front facing garage cannot exceed 30% of the front façade of the house. This means the front façade of the house must be 73.33' to 80' wide, for a front façade 2-car garage or 106.67' to 133'33 feet wide for a front façade 3-car garage. This will require much wider lots and fewer lots per acre or else it will require placing garages in the rear, either as rear attached or detached garages. Rear yard accessible garages are not favored in the market place and will likely lead to more total impervious surface (except possibly on corner lots). House A Building Types can also be built in the N1b and N2 districts, but only if they are at least 1.5 stories. Most undeveloped land is proposed to initially be zoned either N1a or N2, but under the Large-Scale Development rules may have to have part of that land subdivided into other zoning districts that do not allow ranch style houses.
2. A single story House B Building Type can only be built in the N3a or N3b districts. The applicable bulk regulations require lots with at least 60' of width, a minimum 25' front yard setback, a minimum 40' rear yard setback, and a minimum total side yard setback of 15', with at least 7' per side. If a driveway is to be built past the house to the rear, the minimum side yard setback is 11' on that side of the house, for a total combined minimum side yard setback of 18'. A front façade garage entrance is allowed provided it does not exceed 30% of the front façade of the house. The N3a and N3b bulk requirements are the same as for the N2 district, except they require a large front yard setback. The N3a and N3b bulk requirements are the same for the N1b district, except the N1b district requires a wider interior side yard setback. The N3a and N3b zoning districts are proposed to apply only to existing houses, which, for ranch houses primarily include houses with either a single car attached front façade garage or houses with detached garages in the rear yard.
3. A single story House C Building Type can only be built in the N3b and N3c districts. The N3c bulk regulations are the same as for the N3a and N3b districts described above; except that all garages for House Type C must be from a street side yard of a corner lot or in the

rear, unless the lot is steeply sloped, in which case the garage can be a tuck under basement garage accessible from the front yard. The difference between the House B and House C Building Type in the N3b district is that the House C Type has a steeper pitched roof and cannot have a front facing garage, except on a steeply sloped front yard as a tuck under garage. The N3c district is also proposed to apply only to existing houses. It would be possible to apply the N3a, N3b and N3c districts to new subdivisions by rezoning.

4. Single story, single family homes are not allowed in the N1b, N2, N4, N5, NX1, NX2, NX2a, NX3, RX1, RX2 or DXR districts, which are the other districts in which single family homes are allowed.

This restrictions will result in ranch houses not being available in all neighborhoods and where available will require larger lots with less development per acre and result in their being more expensive. Developers may elect to develop housing in other cities, where the restrictions on building these houses are not so great and where the developers can produce more lots per development. This may limit the availability of this house type to beginning buyers unless they are willing to accept detached garages.

**Solution:** We suggest that the traditional residential zoning districts and bulk regulations continue in areas that are primarily residential and that the new form based code type regulations for residential housing only be introduced into mixed use areas such as DXR, RX1, and RX2 districts initially. We believe these radical changes should be tested in a small part of the city and proven to create affordable housing that is acceptable in the market place before they are extended city wide.

**However, if these new regulations are to be extended city wide immediately, we request that single story houses also be allowed in the N1b and N2 districts. We further request that some of the bulk regulations be reduced and that the rules applicable to attached garages be modified, both as discussed below.**

**B. The side yard bulk regulations should be reduced for N1a and N1b districts.**

Only a House A Building Type can be developed in the N1a and N1b districts. The building siting regulation No. 5 for the N1a district, on lots with at least an 80' width, requires a minimum interior side yard setback of 15' and a total combined minimum side yard setback of 25'. These dimension requirements are inconsistent. This is a 25% to 33.33% increase over the current zoning regulations, depending on how this provision is intended to be applied. The building siting regulation No. 5 for the N1b district, on lots with at least a 60' width, requires minimum interior side yard setback of 10' and a total combined minimum side yard setback of 25'. This is a 66.67% increase in side yard setback width over the current zoning applicable to 60' wide lots. All other proposed residential districts with lots of a minimum width of 60' require minimum interior side yard setbacks of 7' and a total combined minimum side yard setback of 15'.

Historically, the R1-80 zoning district with minimum of 80' wide lots, originally has a side yard setback of 8' minimum for a 1 or 1.5 story house, with a 20' combined minimum for a 1 or 1.5 story house, and a 10' minimum for a 2 or 2.5 story house, with a combined minimum

of 25' for a 2 or 2.5 story house, but in 1989 that was amended to a minimum side yard of 10' for each side yard setback. When the City adopted the R1-90 zoning district with minimum of 90' wide lots, it made the side yard setbacks a minimum of 10' on each side. For all other residential zoning districts, including those with minimum lots widths of 70' or 60', it made the minimum side yard setbacks 7' with a combined total minimum for the two side yard setbacks of 15'.

This increase in minimum side yard setback requires wider lots to build the same width houses as presently built and drives up the lot price and therefore the house prices.

**Solution: For the N1a district, we recommend a minimum interior side yard setback of 10' on each side. For the N1b district, we recommend a minimum interior side yard setback of 7' and a minimum combined side yard setback of 15'.**

**C. The minimum front yard setback for N1a and N4 districts is too large.**

Building siting regulation No. 3 for the N1a district requires a minimum front yard setback of 45', which is a 50% increase over the current zoning requirements for all districts. It results in a total front and rear yard setback of at least 75', which is a 25% increase over the current minimum of 60' under all existing zoning districts, except the R1-90, which has a combined total front and rear yard minimum of 65'. Building regulation No. 3 for the N4 (House C Building Type) district requires a minimum front yard setback of 35', which is 16.67% increase over the current zoning requirement for a 30' front yard setback and which contrasts to the proposed front yard setbacks of 25' for the other House C Building Type districts and for all House B and House D Building Type districts.

These increases in the minimum front yard setbacks increase, when added to the same or increased back yard setbacks, requires larger lots and increases the lot price and therefore the house prices.

**Solution: For the N1a district, we recommend a minimum front yard setback of 30', the same as is proposed for the N1b and N2 districts and as applies for all current residential districts. For the N4 district, we recommend a minimum front yard setback of 25', the same as being proposed for the other House C districts and for all of the House B and House D districts.**

**D. The minimum rear yard setback for the N3a, N3b, N3c, and N4 districts should be reduced.**

Building siting regulation No. 6 for House B Building Type in the N3a and N3b districts and for House C Building Type in the N3b, N3c and N4 districts requires a minimum rear yard setback of 40', a 33.33% increase over the current zoning requirement of 30' and over the proposed requirement of 30' for House D Building Types. It should be noted that for House D Building Types, garages must be accessible only from a street side on a corner lot or from the rear yard, so a 30' rear yard setback is sufficient to accommodate a detached garage or access to a rear façade attached garage. The result of this requirement is to increase the combined front and rear yard minimum distances to 65' from the current zoning district minimum combined total of 60' for each of these proposed new zoning districts.

These increases in the minimum rear yard setbacks, particularly when combined with the increase in the total front and rear yard setbacks, requires larger lots and increases the lot price and therefore the house prices.

**Solution: Reduce the minimum rear yard setbacks to 30' in the N3a, N3b, N3c and N4 zoning districts.**

- E. **The combination of the regulations regarding parking garages and driveway widths will make it difficult to have attached 2-car garages entered from the front facades and as a practical matter will preclude most 3-car garages entered from the front façade.**

The market place demands attached two car and three car garages accessible from the front facades of houses. For example, in the 45 lot Culver Ridge Estates Plat 1, of the 39 houses built to date, only 1 house on a corner lot has its garage access on a side yard façade and none have rear façade or rear yard detached garages. Of these 39 houses, 22 have 2-car garages, 16 have 3-car garages, and 1, on a wide cul-de-sac lot, has a 4-car garage. The trend also is for people buying larger cars as the most popular selling models are large SUVs and pick-up trucks. Standard 2-car garages are 22' wide by 20' deep or 24' wide by 22' deep, with either a 16' or 18' wide double garage door or two separate 8' or 9' wide single garage doors, and typically with an 18' wide driveway. Three-car garages vary from 32' wide by 22' deep to 36' wide by 25' deep, 38' wide by 26' deep or 40' wide by 30' deep, with either one double garage door and one single garage door or three single garage doors, and typically with a driveway that widens out to approximately a 27' wide driveway at least one car's length in front of the garage doors. The front yard is the preferred location, since this minimizes the amount of snow removal and driveway repair and replacement costs.

There are a number of proposed building regulations that, individually or taken in combination, adversely affect or preclude the ability to provide attached 2-car garages that have front façade access and that as a practical matter will preclude almost all 3-car garages that have front façade access. These regulations are as follows:

1. Building Type Regulation No. 10 for each of Houses A, B, C and D regulates which façade of the house may have an attached garage entrance location and the maximum percent of the front façade of the house can be occupied by such garage entrance location. The term front façade width with respect to the attached garage location is not defined in 135-7.1, which deals with how to make measurements, nor as a defined term in 135-7.2. For House A, the attached garage location on a front façade can be a maximum of 30% of the front façade width in the A, N1a and N1b districts and 50% of the front façade width in the N2 district. In contrast, for House B, the attached garage on the front façade can have a maximum garage door width of 30% of the front façade. The difference in wording of the rules for the garage entrance as a percent of the front façade between House A and House B implies that the House A percent is calculated based on the garage width along the front façade and the House B percent is calculated based solely on the width of the garage doors. These measurements for the different possible 2-car and 3-car garage and garage door widths compared to the front façade widths for house and garage are shown in the following table:

<u>For districts with 30% of front façade measurement</u>		
<u>Garage Width</u>	<u>Front Façade Width</u>	<u>Districts</u>
22'	73.33'	N1a, N1b, A
24'	80'	N1a, N1b, A
32'	106.67'	N1a, N1b, A
36'	120'	N1a, N1b, A
38'	126.67'	N1a, N1b, A
40'	133.33'	N1a, N1b, A
<u>Garage Door Width</u>	<u>Front Façade Width</u>	<u>Districts</u>
16'	53.33'	N3a, N3b
18'	60'	N3a, N3b
24'	80'	N3a, N3b
25'	83.33'	N3a, N3b
27'	90'	N3a, N3b
<u>For districts with 50% of front façade measurement</u>		
<u>Garage Width</u>	<u>Front Façade Width</u>	<u>Districts</u>
22'	44'	N2
24'	48'	N2
32'	64'	N2
36'	72'	N2
38'	76'	N2
40'	80'	N2

For House C, an attached garage entrance must be either on a street side yard (for a corner lot) or on the rear façade, except if the lot is steeply sloped, then it can be on the front façade with a Type 1 design exception. For House D, an attached garage is only allowed from the rear façade.

2. Building Type Regulation No. 11 for each of Houses A, B, C and D states the permitted driveway locations. For House A, one driveway per lot, except a circular drop-off is permitted with a minimum lot width of 100'. For House B, one driveway per lot. For Houses C and D, from an alley, if it exists; one driveway per lot, and shared driveways encouraged. This means that one cannot put an attached driveway on the front façade and have a separate driveway to another attached or detached garage, so all garages must be off the same driveway system.
3. Building Type Regulation No. 16 for each of Houses A, B, C and D states the minimum percent of the front 20 foot of depth on all full floors of the house that must be occupied space (i.e., space for residential occupancy, not used for storage or parking). The requirement is 60% for Houses A and B, except for House A in an N2 district, it is 50% and 100% for Houses C and D. This measurement counts parking spaces within garages, even if the garage is entered from the side, if the garage is within the front 20 feet of the first floor. In other words, no more than 40% of the front 20 feet of the first floor area of House A (except for those located in the N2 district) and House B can be for garage uses, regardless of from which façade the access occurs. None of the front 20 feet of the first floor of House C or House D can include garage space.
4. Building Type Regulation No. 17 for each of Houses A, B, C and D states where the principal garage can be located and reinforces Regulation No. 16. For House A, a maximum of 30% of any story can be garage in the A, N1a and N1b districts and a maximum of 50% of any story can be garage in the N2 district. For House B, a maximum of 30% of the first floor and 50% of the basement can be garage. For Houses C and D, the garage can be in any basement or the rear of the ground story. The “ground story” is the first full floor as measured from the front or primary lot line, so typically it would be the first floor. Note, this measurement of the first floor is for the garage square footage to the total square footage of the garage and the other first floor residential spaces. This might create issues for any split-level house.
5. Sections 135-2.3.8(A)(1) and 135-2.3.11(B) require that all garage doors must be recessed at least three feet from the dominant façade of the house facing the street. This is not limited to primary streets. “Dominant façade” is not defined in the ordinance. By dictionary definition, a façade can either mean “the front of the building” or “any side of a building facing a public way or space and finished accordingly”; however, “dominant” means most important, powerful or influential, so combined, they probably mean the front of the house or other building, or where the primary entrance for visitors to the house is located. Typically, most front façade garages either are flush with the front of the house or extend in front of the house and serve as one wall of the porch or stoop to the front door.
6. Section 135-3.3.2(C) requires that driveways shall not be located off a primary street, except where the parcel is fronted by more than two primary streets or there is no alternative (as in the case of interior block lots where there is no alley to the rear or side). This means that a corner lot likely will be required to have an attached garage from the side street unless both streets are deemed primary streets.

7. Section 135-4.13.3(A) provides that (a) the maximum width of any driveway shall be 22' unless otherwise approved by the city engineer, and (b) in N and NX districts the driveway must be at least 8' wide, but not wider than 10' in the front yard, except in an N1 or N2 district, no wider than 14'. A typical 2-car garage driveway is 18' in width and a 3-car driveway likely includes an additional 8' to 9' feet of width at least for a car length in front of the garage entrance. It would be difficult to park two cars side by side on a 14' wide drive or to maneuver around a parked car in such driveway. These rules do not allow the typical teenage/young adult driver addition of a third parking lane in the driveway for the third car. The result of these restrictions will be substantially more cars parked on the streets and more conflict between the residents to jockey cars for use.
8. Section 135-4.13.3(D) requires that any driveway must be set at least 3 feet from a side yard property line. The result of this requirement will be to increase the side-yard setback if a garage goes by the side of the house to reach a rear façade attached garage or a detached garage in the rear yard.
9. Section 135-4.13.3(E) provides that when a garage door is located on the front façade, the driveway can be no more than 2' wider than the garage door. This prohibits the construction of a third driveway lane for off-street parking of extra cars for teenagers or young adult family members or elderly parents also living at the house. It will likely result in greater friction and consternation among family members to juggle cars or will result in significant on street parking and potential conflict with snow plows and other street maintenance and repair work. It may also increase friction among neighbors, particularly on streets with parking on only one side, for scarce street parking spaces.
10. The notes to the Building Type Regulations for each of Houses A, B, C and D provide that no more than 25% of the front yard can be impervious surfaces, which would include driveways, sidewalks between the driveway and front door, front stoops and porches or roofs over the front stoop and porch.

There is no clear outcry from the public for these regulations. They add significant, unneeded regulation that causes many homes in Des Moines to be nonconforming.

The net effect of these regulations restricting garage and driveway construction will be to require most builders in the Des Moines area to acquire new sets of house plans at considerable expense and to build house types in Des Moines different than they would build in surrounding communities. In order to accommodate these garage requirements, when coupled with the additional lot dimensions discussed above, it is very likely that developers will need to acquire larger lots and therefore develop fewer lots per acre. This would increase the lot costs and house costs. Or else developers will need to build smaller houses with detached garages or rear attached garages. Those redesigned houses have not been tested for market acceptability and may not be readily sold. When inserted into an already partly developed neighborhood they would create houses that would appear different from the existing houses in the neighborhood and may adversely affect the value of the overall neighborhood.

To the extent the result of this combination of rules is to force garages to rear façades or detached in rear yards, it will increase, not decrease, the overall amount of paved impervious area, will increase the amount of snow to be removed and will increase the costs of maintenance and replacement of driveways. Shared driveways are not necessarily a solution. They only work if the neighbors cooperate. Driveways between houses create spots where snow cannot easily be shoveled or blown. Garages in rear yards take up private space for family enjoyment and for gardens or other beautification.

It is likely that when these additional home purchase and operation costs are added to the higher property taxes already existing in Des Moines, home buyers may well elect to buy elsewhere and home builders will elect to build more houses outside rather than within the City of Des Moines.

**Solution:** These rules should be scrapped or substantially revised to allow much greater front façade attached garage options. At a minimum, they should allow front façade garages that do not exceed 50% of the front façade of the house in length and should allow driveways of 18' in width for a 2-car garage, 26' or 27' in width for a 3-car garage and allow an additional lane for off-street parking of at least one other car than can fit within the garage.

F. **Overall, the rules appear to discourage, not encourage, innovative house design.**

The House Building Type Regulations, particularly, for Houses B, C and D, appear to be based on and intend to perpetuate historic housing styles and patterns constructed in Des Moines through the first 70-80 years of last century and to not reflect the styles that have been popular in recent years or to allow for creative new styles. Furthermore, they seem to exclude innovative and architecturally designed homes. For example, the home at 3500 Southern Hills Drive has a round tower with a domed shaped roof. This is not an allowed roof type and would not appear to even be allowable by a Type 2 exception under Section 135-1.17.2. If the City wants to develop new house types, with different garage locations and street layouts, it would be better if the City would partner with a developer to create such a subdivision and sample houses to test what its market appeal would be. If the market is there, then others will copy those styles. However, if the market is not there for such products, then the whole city would not have to suffer through this experiment.

G. **The policy to encourage development of alleys in new residential subdivisions is bad public policy.**

The House C and House D Building Type Regulations encourage the construction of alleys as the preferred location for garage access for Beaverdale-style 1.5-story houses and for bungalows, 2-story Victorian and Arts and Craft style houses. This will be difficult to do within the maximum block perimeters allowed. It will require the developer to spend additional money for paving, create additional impervious area and require the City to plow, maintain and repair additional paved roadways and to patrol additional roadways. It may increase the potential for assessments for such maintenance and repair costs against the adjacent property owners. It allows a pathway for criminals to easily access the rear of houses, garages and cars without being easily seen by neighbors or the police. Historically,

the City has been abandoning alleys, particularly in residential areas, and conveying them to private owners to relieve the City of these costs and to put such land back on the tax rolls.

H. **If this zoning ordinance is adopted, considerable care needs to be taken as to what districts different parcels should be initially zoned.**

It appears from the proposed zoning maps that most potential future residential development land is designated either N1a or N2. The logic of why one area is designated as one of these two categories or any other category is not necessarily apparent and no material has been presented to explain the choices staff is recommending be adopted. For example, Culver Ridge Estates Plat 1 is proposed to be rezoned to N2 district. Under the current rules, being an N2 district would preclude it from having additional ranch houses, even though almost 75% of the homes built to date are ranch houses, and would preclude almost all of the garages that have been built to date on those houses. The grandfathering as nonconforming buildings for most of the houses in this subdivision does not protect the developers of the undeveloped lots from having an inappropriate zoning imposed upon them. At a minimum, the City should be required to give personal notice by mailing to the owners of all undeveloped lots and all lots which the City desires to be redeveloped as to what the proposed new zoning classification would be for their respective property. I have talked with a number of property owners who are unaware of the City's proposed new zoning ordinance and proposed new zoning districts. The City's efforts to date have not been sufficient to get word out of the major changes that are being proposed. General notice by publication would not appear sufficient.

## II. **Town Home Issues**

A. **No single story attached town home unit is allowed in any zoning district.**

Single-story town homes are a product in significant demand, particularly among empty nesters and retired persons who no longer want to deal with stairs on a daily basis and who want someone else to provide lawn care, snow removal and major exterior home repairs. The end units sell fastest and duplex, single-story town homes are a good seller.

Town homes can only be developed as a Flat Building Type (allowed only in NX2, NX2a, RX1, RX2, DXR or NX3 districts), a Row Building Type (allowed only in NX1, NX2, NX2a, RX, RX2, NX3 and DX2 districts), a House A 2 unit building (allowed in N1a-2, N1b-2, N2-2 and A-2 districts), a House B 2 unit building (allowed in N3a-2 and N3b-2 districts), a House C-2 unit building (allowed in the N3b, N3c, N4 and NX1 districts), or perhaps a House D-2 unit building (allowed only in the NX1, NX2 or NX2a districts; but there is no statement that a common wall is allowed on the lot line with 0 feet setback), a House C Cottage Court configuration of separate detached units around a central courtyard (allowed in N3b, N3c, N4 and NX1 districts) or a House D Cottage Court configuration of separate detached units around a central courtyard (allowed in N5, NX1, NX2 and NX2a districts). Only the House C Type built detached cottage homes in an N3b or N3c district can be one story. While House A and House B Types can be single story in some circumstances, the rules for building those as

attached two-unit buildings requires them to be a minimum of 1.5 stories for the A House and 2 stories for the B House.

**Solution:** The notes to the House A and House B regulations should be amended to allow a minimum of 1-story for two-unit buildings. Consideration should be given to also allowing another Building Type that would allow single story attached townhomes or allow detached single family townhomes in some configuration other than the courtyard concept described for Houses C and D.

**B. It is not clear that townhomes can be located on a separately platted lot for conveyancing.**

The market place requires that each unit owner also own the land under their respective unit as a separate lot. This product is much easier to finance. Those town homes that were built as condominiums rather than as owned on separate lots, lost the ability to refinance or sell during the financial crisis after the housing bubble burst in 2007-2008 time period, as condominiums are less favored in the financial markets.

The Flat Building Type requires both a minimum building width, which is 30', 40' or 60' depending on zoning district and a minimum lot width, which is 60', 70' or 80' depending on zoning district and in each case is wider than the building width. It also has street side and interior lot setback requirements, which are inconsistent with separate lots under each independent dwelling unit within the building. Similarly, the Row Building Type expresses minimum and maximum building widths in terms of units, but then specifies minimum lot widths and requires street side and interior side yard setbacks. Again, this is inconsistent with separate lots under each independent dwelling unit within the row building. Likewise, the House A, House B and House C Building Types notes for two-unit houses, require a common wall between the units but require the building to be built on lots with a minimum width of 80' to 120' for House A and a minimum lot width of 85' for House B and a minimum lot width of 65' to 80' for House C, depending on the zoning district. The House B 2-unit regulations also limit the two-unit house to one garage with one double door no wider than 16' or two garage doors no wider than 9' and the maximum two-unit building width is 60'. This means that both units cannot have a double garage. Again, there is nothing that suggests a lot line can be platted along the common wall between the two units in the House A or House B Type. Only the House D 2-unit regulations allow a 0' side yard setback, which suggests that a lot line could be platted where the two units join.

**Solution:** The proposed ordinance should be revised to allow the land under each attached unit to be platted as a separate lot.

**C. Entrance requirements for some Flat and Row Building Types violate the accessibility requirements.**

Item 21 of the Flat Building Type regulations and of the Row Building Type regulations respectively require that the required entrance for a Flat Type Building or for a Row Type Building in the RX2, DXR or NX3 zoning district is a stoop or porch between 2.5' and 6' above the public sidewalk. This violates the fair rental housing accessibility federal statute and no such unit could be rented to tenants. It may also be difficult to finance such units.

**Solution: This requirement should be changed to a stoop or porch between 0' and 6' above the public sidewalk.**

### **III. Development Issues**

#### **A. Existing Plats – PUDs.**

Section 134-2.2.9(D) provides that land that has been zoned as a PUD upon the effective date of this new zoning ordinance can be developed without regard to the new zoning ordinance requirements, including building types. All development must conform to the PUD ordinance or any amendments approved by the City Council. We support this solution for PUDs.

However, Section 134-2.2.9(A) provides that the land covered by an existing PUD cannot be enlarged. There may be some situations where the most logical development of land abutting an existing PUD may be in accordance with the terms of that PUD as extended to the land, including land that is contiguous except for an intervening street, alley or other right-of-way. For example, the proposed zoning maps mistakenly identify the property located at 315 SW 14<sup>th</sup> Street, the MidAmerican Energy Company land at the SE corner of SW 16<sup>th</sup> Street and W. MLK Parkway and the land at 200 SW 16<sup>th</sup> Street as PUD. This land abuts two different PUDs and if any of these parcels is developed it may be more logical to develop them as part of one of the two abutting PUDs rather than for uses allowed by some other district to which they might be rezoned.

Section 134-2.2.9(A) also provides that no new land can be zoned as a PUD after the effective date of this ordinance. This provision should be eliminated and PUDs be allowed to continue as part of this new ordinance. The purpose of a PUD is to address situations where none of the existing zoning categories provides adequate rules for development and to create rules specific to that situation. It allows a special situation to be addressed without amending the design requirements for other existing zoning districts and therefore making existing properties nonconforming.

#### **B. Existing Plats with undeveloped lots that are not part of a PUD.**

If an existing plat has undeveloped lots, those lots will have to be developed in accordance with the building types allowed in the zoning classification to which the plat is rezoned. It may be that those building types will differ significantly from what previously has been developed. For example, there are 6 undeveloped single family lots in Culver Ridge Estates Plat 1, which the City proposes to rezone as N2. N2 only allows House A Building Types. These do not allow single story houses, even though there are almost 75% of the existing houses that have been developed in this subdivision are ranch houses. The new requirements will also require garage doors to be recessed at least three feet farther back than the remaining front façade and as a practical matter preclude 3-car garages. All but one of the houses currently built have garages that extend in front of the front facades and several have three car garages. It will require new house plans, not generally developed in Des Moines, to complete development of this subdivision. Those houses may appear out of character with the neighborhood and depending on what designs could be developed that would comply with the new zoning requirements may reduce the value of the homes already in the neighborhood.

**Solutions:** We recommend that all approved plats for which there remain unsold and undeveloped lots be treated as a PUD by definition, based upon development in accordance with the existing zoning applicable to that plat, and be allowed to be completed based upon the zoning in effect immediately prior to adoption of the new zoning ordinance. This would allow the neighborhood to be completed with houses substantially similar in character to those currently developed within that plat. If this solution is not approved then the City Council needs to carefully consider the proposed rezoning for each such plat on a case by case basis. For example, the Culver Ridge Estates Plat 1 might then be rezoned to N1a rather than the proposed N2, since N1a allows ranch houses. Alternately, the City Council should consider amending the N2 Building Type regulations to allow ranch houses to be built in an N2 district.

**C. Transitional Rules and Effective Date of the New Ordinance.**

Section 134-1.3 provides that the new zoning ordinance will go into effect at an unstated date. The selection of that date is critical. If the date is immediately upon adoption of the ordinance, then it will become a de facto moratorium upon development, as it will require all development that is in process for which a building permit has not been received to stop and start over. In many cases, it will require material modifications of proposed plats, site plans and/or building plans. Developers may have already started construction of plat improvements only to find they are building lots of sizes that are not desirable for development under the new rules. The developers will incur substantial costs in redesigning plats, site plans and building plans that they had previously prepared in good faith under the current zoning ordinance.

Section 134-1.11.1 provides some transitional rules, but these are ambiguous and are not adequate to address these transitional concerns. Subsection 134-1.11.1(A) provides “Any building, development or structure for which a building permit was issued or a complete building permit application had been accepted for processing before the effective date may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not comply with the provisions of this ordinance.” “Building permit” is not a defined term in the zoning ordinance and therefore must have the same meaning as applies elsewhere in the City Code. It is unclear what a “building permit” would be for a development. In many cases, a developer will have expended thousands or hundreds of thousands of dollars designing a potential development, based on the current zoning, but has not yet had a building permit application accepted for processing. That expense will need to be duplicated in whole or in substantial part and will increase the total project costs.

Subsection 134-1.11.1(B) provides “Complete applications for variances, exceptions, special permits, conditional uses, site plans, PUDs and other zoning related approvals that are pending approval on the effective date must be reviewed wholly under the terms of the zoning ordinance in effect immediately preceding the effective date.” These actions do not include a plat that has been approved. Further, these approvals are a condition precedent before final plans are developed and submitted for a building permit. If the intent of this section is that one can then in the orderly course of development apply for and receive a building permit that was not pending on the effective date, but that is submitted in conformance with the approved variance, exception, special permit, conditional permit, site plan or other zoning related approval, then

it should clearly so provide. Otherwise, this transitional rule is meaningless. Again, in many cases, a developer will have spent thousands of dollars preparing site plans or otherwise gathering material and information for these actions but have not had a completed application accepted prior to the effective date. That expense will need to be duplicated in whole or in substantial part and will increase the total project costs.

Subsection 134-1.11.1(C) provides “The community development director is authorized to issue permits for construction or development approved before the effective date and for developments pending approval before the effective date even if such building, development or structure does not fully comply with provisions of this zoning ordinance.” It is unclear what Subsection C addresses that is not intended to be covered by Subsections A and B. The other possible reading of this section is that it grants the community development director unbridled discretion arbitrarily to make exceptions to the effective date deadline. That is unacceptable.

None of these transitional rules addresses the problem of a developer who has completed a plat, but the lots are no longer suitable for building under the new building rules. It would be extremely expensive to replat the property, abandon utility connections already constructed and install new utility connections at appropriate points for the locations of homes on the revised plat.

**Solution: We request that that the mandatory effective date of the new zoning ordinance be a date twelve to fifteen months after its adoption and that in the interim, a developer can elect to develop under either the current zoning regulations or the new zoning regulations. This will allow development to continue in an orderly course during this implementation period and allow most developers to avoid incurring extra cost for redesign.**

**If the City is unwilling to delay the mandatory effective date, it should waive any fees for resubmittal of revised pre-application meeting requests, preliminary plats, site plans, grading permits, foundation permits, building permits or other permits, where the developer has to resubmit those in mid-review and the City should reimburse each developer for the lesser of (a) the additional verified cost incurred by the developer to revise its plans to conform to the new ordinance or (b) the original verified costs incurred by the developer in developing its initial plans that are no longer valid under the new ordinance.**

**Further, for plats that are already under construction, we request that the plat be deemed a PUD, even if it was not zoned as a PUD before its construction started, based on the zoning district and its bulk regulations in effect on the date the plat started construction and that the development of the lots in such plat can continue in accordance with the zoning regulations that were in effect for such plat as of the date construction started on such plat.**

**If the City is unwilling to adopt this rule for plats under construction, the City should reimburse the developer for the costs to redesign its plan to conform to lots that are developable under the new zoning that will be applicable to such property and to pay the developer for the reasonable costs to abandon existing utility connections and relocate**

utility connections (and, if necessary) streets and other improvements to accommodate such new lot scheme.

**D. Nonconformity Rules.**

1. **Nonconforming Buildings.** Section 134-7.4 allows nonconforming buildings to be rebuilt provided a building permit application is filed within six months from the date of damage or destruction. We support the basic concept of Section 134-7.4. However, an owner may not be able to file for such building permit within that time frame if, for example, there is a dispute with the insurer over payment of the claim or if the lender takes the insurance proceeds and the owner needs to find new financing to undertake the repair or replacement or if the owner is injured or killed in the damage or destruction.

**Solution:** Section 134-7.4.6 should be amended to allow the time to file for such building permit to be extended beyond six months if the community development director finds good cause is shown why such permit could not be filed within the six-month time period.

2. **Nonconforming Uses.**

- (a) Section 134-7.3 governs nonconforming uses of property. Section 134-7.3.3 provides that a non-conforming use may not be expanded or extended to occupy a greater area than occupied at the time the use became nonconforming, unless otherwise expressly stated. It further allows a nonconforming use of a portion of a building to be expanded or extended within the building if the development administrator (which is an undefined term) determines the area of the building into which the expansion is proposed was manifestly arranged and designed for the use.
- (b) Section 134-7.3.2 also allows one nonconforming use to be replaced with another nonconforming use if approved as a Type 1 zoning exception by the community development director if it will not increase any adverse impacts on the surrounding area when compared to the previous nonconforming use, when considering traffic to and from the site, amount of parking required, hours of operation, any outdoor display, storage and work activities and other factors likely to have an effect on the surrounding area.

**Solution:** These exceptions for continuation or expansion of nonconforming uses need to be enlarged to allow (i) a portion of an existing building to be remodeled to allow a tenant to expand that tenant's nonconforming use and (ii) to allow tenants with nonconforming uses to expand into other adjacent buildings. They also should be amended so that if a nonconforming tenant is replaced by a conforming tenant, such space can again be leased to a nonconforming tenant in the future if the conforming tenant vacates. For example, the City encouraged development of flex office space near the downtown, which includes users with light industrial uses and large warehousing requirements as an adjunct to their business. The new zoning ordinance makes such uses and such buildings nonconforming. If the landlord cannot accommodate a tenant who wants to expand, then such tenant may well

be relocate to another more accommodating suburb. If the landlord cannot readily accommodate such tenants, it may have trouble releasing the space to a user whose use is allowed by the zoning district, may have trouble financing the property, may have to carry substantial additional insurance to not just pay for replacement costs, but pay to reconstruct the property to a building type that is allowed, now a 3-story building, and the result may be to substantially reduce the market and assessable value of the property.

- (c) Section 134-7.3.5 does not allow such use to be re-established if the structure containing the nonconforming use is damaged or destroyed to the extent of 50% or more of its replacement cost. It also does not allow the property to be rebuilt if a building permit application is not submitted within six months of the damage or destruction.

**Solution: This section should be changed to conform to Section 134-7.4 on nonconforming buildings, which allows such buildings to be re-established. As discussed above, the community development director should be allowed to extend that six-month deadline for good cause shown why such permit could not be submitted within said six-month time frame.**

- (d) Section 134-7.3.3 provides that “unless otherwise expressly stated, nonconforming uses may not be expanded or extended to occupy a greater area than was occupied at the time the use became nonconforming unless the expansion reduces or eliminates the nonconformity.” This would appear to preclude any driveway widening projects that widen the portion of a driveway in the front yard beyond 14 feet in width. It may preclude some other modifications to residential properties.

Section 134-7.4.5(A) prohibits modifications to any building that does not meet the building type or design regulations of chapter 135 that adds more than 50% to the floor area existing on the effective date of the ordinance. However, Section 134-7.4.5(B) requires that any façade being added or replaced must comply with the building type regulations if any of the following occurs: (1) new exterior facades are being added as a result of addition of floor area, (2) more than 30% of the exterior façade material is being replaced, (3) more than 30% of the windows on any façade are being replaced, (4) doors or balconies located on any exterior façade are being replaced. Section 134-7.4.5(C) has similar requirements if the façade is within the build-to-zone, which does not appear to apply to single family houses, but will apply to many other building types. This means that a house that is non-conforming because of the type of house within the new zoning district or the amount of garage space that occupies the front façade of the house or the front 20’ of depth of the house or if the garage extends in front of the house, must now be modified to conform to the building regulations applicable in the district if the owner wants to replace the siding on the house, wants to replace more than 30% of the windows on any side of the house, or wants to replace any exterior doors to the house, or if the owner wants to add an addition to the house that will require a new exterior façade on the addition.

Since the standards of 134-7.4.5 are more restrictive than the provisions of Section 134-7.4.6 that states a nonconforming building that is damaged or destroyed by any means can be rebuilt, the standards of 134-7.4.5 would appear to apply if the house or other building is damaged or destroyed by fire and may require that house or other building to be rebuilt as a building type that is a permitted and in accordance with the new building regulations applicable to such building type. This will mean that as a practical matter, the house or other building cannot be rebuilt, except in some very rare situations. This will drastically increase the insurance costs of all nonconforming houses or else will mean that the lenders may take the insurance and the property owners will have no wherewithal to rebuild unless they can secure new plans and new construction financing.

Because the zoning regulations will make so many existing homes nonconforming, this will mean that residents will seek a variance or exception for almost any home remodeling project and many home maintenance projects on such houses. This will increase the cost of such work and the time frame before they can get a permit, if they can get a permit at all, to do such work.

**Solution: The new ordinance should be amended so that the Building Types and Building regulations of Chapter 135 do not apply to most traditional residential neighborhoods within the city. If the new ordinance is to make the House A, B, C and D Types and building regulations apply to the traditional residential neighborhoods within the city, then either (a) those House A Building Types and building regulations need to be substantially modified so as to not render so many properties nonconforming, or (b) Subsections 134-7.4.5(B) and 134-7.4.5(C) need to be deleted or materially revised, or (c) the standards for making exceptions need to be broadened substantially to allow typically additions, remodeling and maintenance to residential houses to occur.**

**Section 134-7.4.6 should be amended to provide that it controls over any conflicting provision of the zoning code, whether that provision is more restrictive or not. The typo as to the applicable percentage in Section 134-7.4.6(B), line 3, should be corrected.**

### **3. General Concerns about Nonconformity.**

This ordinance makes substantial existing uses of property and substantial number of existing buildings nonconforming. National lenders, including HUD, generally require a zoning letter as a condition of making a loan and many either impose substantial additional conditions on the loan or will not make a loan on nonconforming property. The designation of the property as nonconforming is likely to adversely affect the value of the property and therefore affect the amount that can be borrowed and the property taxes that can be collected.

**Solution: We urge the City to require a report from its staff and consultants about which properties and how many properties will be made nonconforming by the proposed ordinance before it takes final action to adopt any ordinance. We further**

**urge the City strongly to consider making only those changes that it feels are the minimum necessary to address whatever defects it finds in the current zoning ordinance and to make the fewest properties possible to accomplish that goal nonconforming.**

**E. New Subdivisions for Residential Development.**

1. The rules that will be applicable will depend on the size of the property that must be considered together in order to obtain a new subdivision and a new plat and the zoning district or districts applicable to such property.
2. Single family houses per lot can only be developed in the A, DXR, RX1, RX2, N1a, N1b, N2, N3a, N3b, N3c, N4, N5, NX1, NX2, NX2a and NX3 districts. A single family residence can be developed on the upper stories over different first floor use in the DX1, DX2, MX1, MX2, MX3 and CX districts. In the DXR, RX1 and RX2 districts only Flat Building and Row Building construction can be used. Therefore, the traditional single family house can only be developed in the various N districts and in the A district.
3. Section 135-3.1.2(A)(1) states that if the property to be developed is less than 5 acres or, regardless of size, is zoned N1a, N1b, N3a, N3b, N3c, N5, I or P, then the Large-Scale Development rules do not apply. While the new zoning ordinance does not so state, it would appear that subdivision of those parcels would be governed only by the Subdivision Ordinance, Chapter 106 of the Des Moines Municipal Code.
  - (a) The proposed zoning map designates large areas of undeveloped land suitable for residential development primarily as N1A or N2 with some NX1 areas. 135-3.1.2(A). One issue will be whether a particular parcel of land should be zoned N1a versus N2.
  - (b) If the subdivision is not subject to the Large-Scale Development standards, then there are different subdivision rules that apply including:
    - (i) Block lengths shall be not less than 600 feet (contrasted to not more than 600 feet in Large-Scale Development), unless dictated by unusual topography or other limiting factors of good design. Section 106-132(2)(b).
    - (ii) Streets would appear to be governed by the latest SUDAS Design Standards adopted by the City, for example, 66 right of way, if local street with parking on one side, as compared to 67 feet right of way in Large-Scale Development if parking on one side.
    - (iii) No statement that cul-de-sacs only allowed in exceptional cases and appears to allow dead end streets not longer than 660 feet and ending at least 50 feet from end of subdivision.

**4. Large-Scale Development Requirements**

- (a) The Large-Scale Development regulations create a fundamental problem under Iowa law, in that they mean any property to which they apply was not correctly zoned on the

zoning map adopted by the City, but needs to be rezoned into at least 2 or 3 different zoning districts, which may or may not include the district originally shown on the map, whenever anyone wants to develop the property. This draws into question the reasonableness of the zoning classification in the first place. It also creates different treatment of similarly situated properties in that a property that is less than 5 acres will be bound by the zoning district shown on the map, unless intentionally rezoned, but if the parcel is more than 5 acres for most original zoning districts, then it must be subdivided into different zoning districts.

**Solution: A test case should be brought to validate the zoning map adopted pursuant to the proposed new ordinance and to test the validity of the Large-Scale Development requirements for mandatory rezoning the first time the City applies this rezoning requirement, similar to the test cases that were brought when the tax increment statutory amendments were adopted to validate those statutes in order to have people finance development based thereon.**

- (b) The Large Scale Development regulations appear to a City imposed requirement for a property owner to implement a PUD like rezoning, even if the property owner does not desire such rezoning and without regard to whether there are physical conditions of the property, market demands for product, the need to work around other develop, or other factors that warrant special consideration as to whether the existing zoning rules should apply. Our understanding is that almost all cities that have adopted form based zoning have retained the Planned Unit Development zoning option. The PUD has worked well in Des Moines historically.

**Solution: The City should retain the PUD zoning classification and it should only be adopted if requested by the developer. The City should not impose the portions of the Large-Scale Development regulations that mandate rezoning of a development site into multiple zoning districts.**

- (c) The Large-Scale Development requirements apply to all development sites:
- (i) All developments on a single parcel or combination of parcels 5 acres or more in size, except N1, N3, N5, I or P districts.

Concern. This language is ambiguous and it is unclear the scope of situations to which these Large Scale Development regulations of chapter 135-3 apply. The term “developments” and “development sites” are not defined. The American Planning Association (APA) suggested definition of “development” means “any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to commercial or industrial use from a

less intensive use; any activity that alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodlands, wetland, endangered species habitat, aquifer or other resource area, including coastal construction or other activity.” The APA does not suggest a separate definition for development site, but a logical definition would be a site where a development occurs. This means that the Large-Scale Development regulations might apply to the Southridge Mall property if the owner wants to modify the buildings or build a different building on the site and would require it to be rezoned from its proposed CX zone into at least three separate zoning districts and would require all of the other Large-Scale Development regulations to apply.

**Solution: The ordinance should clarify to what situations the rule of Subsection 135-3.1.2(a)(1) applies.**

- (ii) That fall within one of the Large-Scale Development sites designated on the zoning map.

Concern. However no such sites are designated on the proposed zoning map and no criteria for designating such sites are set forth.

**Solution: Subsection 135-3.1.2(a)(2) should be deleted.**

- (iii) Or if the community development director elects to require a site to be treated as a Large-Scale Development site if he determines that such requirement is necessary to meet the intent of 135-3.1.1 to (a) create cohesion between disparate developments that share property lines or street frontage; (b) introduce new streets through large development sites to create a system of smaller development parcels; (c) require connectivity between development sites to blur the lines between one development and another and result in a cohesive area; (d) require open spaces based on the development size and type that, when combined with other developments, will result in a system of smaller spaces distributed throughout the larger area; and (e) create nodes of commercial activity within a development or established from combinations of mixed-use developments on separate parcels.

Concern. This power can override the minimum acreage exclusion and the exclusion of certain districts from the Large-Scale Development requirement. It would appear that the Community Development Director could make these findings in most cases, except perhaps large single-user developments. This grants arbitrary authority that can be granted or withheld on a case by case basis. The discretion granted the Community Development Director by Subsection 135-3.1.2(A)(3) is an illegal delegation of legislative power because it grants the Community Development Director authority, in his or her sole discretion, to mandate that a property must be subdivided into at least two or three different zoning districts. Under Iowa law, only the City Council can rezone property. Furthermore, since this power is within his or her discretion, it may result in

violations of equal protection if he or she treats similarly situated parcels differently.

**Solution: Subsection 135-3.1.2(a)(3) should be deleted.**

(d) The area that must be planned is defined in 135-3.1.1(B) and includes:

- (i) All adjacent and abutting land under similar ownership.

Concern. “Similar ownership” is not defined and it is not clear what concept the City intends by this language. The term “similar ownership” is unclear and needs to be clarified. We need to understand what the City intends before we can comment further on the correctness of any proposed definition.

Often a developer wants to masterplan an entire contiguous area under its control and they may want to spin off portions to be platted and developed separately based upon intended uses and investor and financing considerations. However, in some cases a developer may want to hold out a parcel for separate development later when appropriate and it is not proper to do all Large-Scale Development regulations require at this time. This needs to be accommodated.

- (ii) All adjacent and abutting parcels that are anticipated to be developed within 10 years of submittal.

Concern. This must cover land not under similar ownership. It is unreasonable and very expensive for someone to plan how another person’s property will be developed.

**Solution: Subsection 135-3.1.2(B)(2) should be deleted.**

- (iii) All parcels considered to be part of the same development or phases of development.

Concern. Again, if this parcels are not under similar ownership, this requirement is arbitrary and probably illegal. If the neighbor will not cooperate, why should that preclude development? It is one thing to give the neighbor notice and an opportunity for input in the planning decisions and another to give the neighbor a veto by non-cooperation or else to require one to master plan development of land one does not own and whose plan would not bind the owner.

**Solution: Subsection 135-3.1.2(B)(3) should be deleted.**

- (iv) The Examples in 135-3 Figure 3.5A and 3.5B do not clearly show why in one instance these might be developed as separate Large-Scale Developments or how to draw the boundary between separate, but adjacent, Large-Scale Developments, and in another why they would be developed as a single Large-Scale Development. They do suggest that such determinations could be arbitrary.

- (v) Platting pre-application conference. Section 135-3.1.5(A) requires that the conceptual site plan must show (a) existing utilities, streets, significant trees, and buildings, (b) conceptual proposed street layouts, blocks, and primary street designations and open spaces, (c) proposed zoning district boundaries within overall site, and (d) approximate locations of proposed buildings, parking, service locations, and drive entrances. However, at this stage one is preparing a preliminary plat not a site plan.

**Solution: Item 4 is a level of detail beyond many subdividers who only plan to sell a lot to a prospective user or subdivider. For example, a residential subdivider may provide a commercial lot but have no plans to develop that property itself and no idea on how best to do so. The second concern is how binding this preliminary planning will become on the ultimate lot owner and developer who in many cases will be different than the land subdivider. This mixes site plan requirements preliminary platting requirements. The requirement to show the matters listed in (d) should be deleted.**

- (vi) **Streets and Blocks.** Section 135-3.2 provides requirements for streets and blocks in new plats. For MX and DX districts the streets can be no longer the 400' in length and for all other districts they can be no longer than 600' in length. The maximum perimeter of any block shall be 1600 feet.

Comment. This contrasts with current subdivision requirements of each block having at least 600' length minimum and no perimeter requirements. These block length and total block perimeter maximums will result in small blocks with fewer houses per block length and more cross streets. For example, a House A Type in an N1a or A zoning district must have a minimum width lot of 80' and a minimum square footage of 10,000 square feet. This means an 80' lot must be at least 125' deep. The maximum length of a block of primarily 80' wide lots would be 550'. The corner lots require a greater street side yard setback so a block likely would contain a maximum of six lots per long block face. Similarly, House A Type in an N2 district must have a minimum lot width of 60' and a minimum square footage of 7,500 square feet. This means a 60' wide lot must be at least 125' deep. Again, the maximum block length would be 550'. The corner lots require a greater street side yard setback so a block likely would contain a maximum of eight lots per long block face. If these lots are to be wider to accommodate building 2-car or 3-car attached garages accessible from the front façade, then the number of lots will be less than these numbers per block face. If the lots need to be deeper than 125' then the number of lots will be less per long block face. This new block format will create much fewer lots per block and more street paving and more impervious area. This will increase the cost of street plowing, repair and maintenance and will increase the amount of surface water runoff. It is not clear there is a strong market demand for more corner lots. Owners of corner lots are liable for assessment for maintenance of each street abutting the lot. These maximum length requirements decrease the variety of lot sizes and therefore house variety based on different lot sizes since they make lots and houses more uniform in size within a particular subdivision.

All lots shall have full width frontage along streets and no flag lots are allowed.

Larger block lengths and perimeters and shapes other than rectangular may be allowed by Type 1 exceptions granted by the Community Development Director if natural constraints, such as waterways, slopes or other natural features, exist precluding construction of a new street, if required as a consequence of abutting development conditions or to extend existing streets or blocks. Cul-de-sacs may be allowed only by Type 1 exceptions if necessitated by natural features or site constraints, including, but not limited, to rail corridors, waterways or highways.

Comment. Type 1 exceptions are within the discretion of the community development director and may not be granted. Many existing subdivisions in desirable neighborhoods might not be allowed under these new rules which favor small rectangular blocks.

**Solution: Existing Des Moines Municipal Code Sections 106-132(2) and 106-133 provide very workable rules for development of city blocks and streets in new subdivisions. Section 135-3.2 should be deleted in its entirety and Sections 106-132(2) and 106-133 of the Municipal Code retained for all subdivisions. However, if new requirements are going to be adopted for a subset of subdivisions, the requirement for a maximum block perimeter should be eliminated. The requirement for a maximum block length should be replaced with the current minimum block length of 600 feet or, if that is too long for a minimum length, then with a minimum length of 400 feet. Cul-de-sacs should be allowed, as should dead end streets not to exceed 660 feet in length.**

- (vii) Section 135-3.2.2(C) provides that the base minimum street pavement width on local residential streets is 28', up from 26' under SUDAS, and the new minimum local street right-of-way is 54' with parking on one side and 62' with parking on both sides, up from a current right-of-way of 50' in width on local residential streets that are not extensions of residential streets through another plat (particularly dead end, cul-de-sac, and semi-circular streets), which is again based upon SUDAS design standards. It further provides that the community development director and city engineer may require additional paved street and right of way based on existing context and circulation needs. The City Council adopted the 2017 SUDAS design standard in April 2017, which remain unchanged from the last several years with respect to street paving widths and right-of-way widths in residential subdivisions, and has adopted the latest version of the same annually in April for the last few years.

This new base street requirements require at least a 5' wide sidewalk if the abutting building has first floor residential, which is the current requirement, and at least an 8' wide sidewalk in all other situations on both sides of the street, a significant increase over current requirements except in cases where the sidewalk also serves as a bike path. The City also currently requires a one-foot side stripe of landscaped area between the sidewalk and the property line. If that

requirement continues, it will actually increase the right-of-way widths beyond what is stated in Section 135-3

- (viii) These new base regulations require a minimum of an 8' wide parking area between the back of curb and the sidewalk, and street trees are required, Section 135-5.5 and 135-5.6.4. The current city requirements also require a 1' wide landscaped area between the sidewalk and the adjacent property line, which, if continued, would increase the minimum right of way further.
- (ix) New streets will be required to accommodate the City's most recent bicycle plan which may require a wider sidewalk or bike lanes within the paved street.

Comment. The cumulative result of these increased street paving widths, increased street right-of-way widths, increased sidewalk widths, street tree requirements and bicycle lane costs will be to increase the costs of development and the ongoing costs of maintenance and repair of sidewalks and therefore the rents charged to tenants or the sale price of lots and homes. The increased pavement widths will impose greater cost to the City for maintenance and repair of the streets and bicycle lanes. In addition, since under Iowa Code § 364.12(2) (c), the City cannot require the abutting property owner to remove diseased trees or dead wood, the City will need to bear those costs related to required street trees.

**Solution: The City should keep the existing street paved widths and right-of-way widths, which are based upon current statewide design standards.**

- (x) The area subject to a Large-Scale Development must be rezoned into at least two or three different zoning districts. See generally, Section 135-3.4.3 through 135-3.4.8. The allowed districts into which it can be rezoned turn on what its current zoning is before redevelopment and are shown in Table 3.5-1. There are other requirements that may apply to the subdivision and rezoning of the larger parcel, depending on the initial zoning category.

For Neighborhood (residential) Large-Scale Developments, if the area is less than or equal to 24 acres, it must be divided into at least two different residential (N or NX) districts, each of which must be at least 20% of the area. If the area is more than 24 acres, then it must be divided into at least three different residential districts, each of which must be at least 20% of the overall area.

**Solution: The requirement for spitting a residential project into multiple districts is based upon parcels of too small a size. It would require two districts if the size were 5 acres up to 24 acres. Many single plats are in the 20-24 acres by themselves. Unless the project is large enough for multiple plats, it probably is not conducive to subdivide it into different zoning types. This requirement should be eliminated and splitting should only occur upon request. However, if the requirement is maintained, the acreage sizes that require rezoning into at least two or three different zoning districts should be significantly increased. An examination of existing plats developed within**

**Des Moines and its surrounding suburbs should be conducted to determine what typical sized plats are and what typical sizes of parcels are that are divided into different uses, such as single family and town homes, either by PUDs or by separate zoning for separate parts of a larger development.**

If the development is less than 40 acres, it may have one MX1 area of no more the greater of 20,000 square feet or 10% of the total land area. If the development is 40 acres or larger, it must include an MX1 area that has a minimum of 20,000 square feet and a maximum of 40,000 square feet. The MX1 area is for some kind of commercial or other facility useable by local residents.

Comment. This square footage maximum for MX1 is too limited for corner centers in many locations in the metro and needs to allow enough square footage to attract actual development. **It should be increased.**

Unless the beginning zoning is NX, the subdivision can devote no more that 30% to NX zoning.

Also note that all open space areas must be zoned P1. **This requirement to rezone open spaces to P1 should be limited to open spaces for which the City accepts title.**

If the original zoning is a Mixed-Use Development district (MX1, RX1 or RX2), then it can be rezoned to include an N district only if it is at least 15 acres in size.

If the original district is Downtown Neighborhood Large-Scale Development (DX2, DXR or MX3), then it must be rezoned to include at least two different N districts, each constituting 20% of the area. Or to include at least three different N districts if the area is more than 24 acres, each constituting at least 20% of the land.

Comment. The requirement that Downtown Neighborhood Large-Scale Development of between 5 acres and 24 acres must include at least two different N districts as well as the DX2, DXR or MX3 district, creates single family N blocks that are too small to have a neighborhood character. It may not even result in scattering different housing types, depending on the N zoning districts adopted. Again, the parcel sizes need to be much larger before any mandatory subdivision into multiple zoning districts is required.

- (xi) Section 135-3.5 imposes new open space requirements on any Large-Scale Development, which applies to all zoning districts except N1, N3, N5 or I, and applies to those too if the planning director designates the new development to be a Large-Scale Development. At least one type of open space must be provided within ¼ mile or 1320 feet from the principal entrance to each residential unit. Open spaces can be satisfied by: (a) a square alone, where a square is at least ¼ acre bounded by city streets on all sides; (b) a green space of at least one acre with street along at least 25% of its perimeter; (c) a natural space, such as a wetland or woodland, of at least two acres, with street along at least 25% of its

perimeter; (d) at least two parklets, with each parklet containing a minimum of 1/2 acre that is at least 70% landscaped space with streets along at least 50% of its perimeter; or (e) a plaza of at least 1/8 acre in size bounded by street, pedestrian, river or buildings on all sides, with streets on at least 25% of its perimeter plus a parklet, green space, natural space or square; provided there are no more than one of these per 40 acres (except there may be more than one parklet and except that a plaza alone will not satisfy the requirement). These can be privately owned and each must be zoned P1.

Comment. If the City won't accept as a public space, it would appear these must be owned by a homeowners association. It also appears they will inevitably become public spaces, particularly since most are along public streets.

The open space requirements require too much adjacent street row. They prevent a pocket park behind houses from fulfilling the requirement, such as occurs in a number of the suburbs and prevents trails from fulfilling the requirement. In a number of subdivisions, detention ponds also provide open space. A number of good parks also would not satisfy these requirements since although they have street access, it is less than 25% of their perimeters. Since these spaces will be used by the public if they must be along public streets, the City should accept their dedication and maintain them. Since the public will be using these open spaces, requiring the private sector to maintain and repair them is illegal as imposing a hidden tax, *See Home Builders Association v West Des Moines*, 644 N.W.2d 339 (Iowa 2002).

**Solution: The City should allow areas to qualify as open spaces that have less street right-of-way, such as pocket parks and larger parks. The City should eliminate the requirement that an open space must have adjacent street right of way to qualify. Finally, if the open space must be open for use by the general public, the City should accept title to all such required open space areas and be responsible for installation of improvements and their maintenance, repair and upkeep.**

- (xii) Street trees are required, Sections 135-5.5 and 135-5.6.4. Section 135-5.5 requires at least one street tree per lot and one every 30' along all new streets, realignments of existing streets, major renovations of sidewalks, any new construction of principal structures and any other development or expansion requiring site plan review.

Section 135-5.6 also requires all developments in DX, MX, RX, CX, EX, I and P districts, and any NX district on a major corridor (which is not a defined term) to install meet all streetscape requirements, including street trees; but provides for a development of less than 200 feet along a primary street frontage, a fee-in-lieu of streetscape will be assessed by the community development director. No proposed fees are provided.

Section 135-6.5.4 provides that in all residential districts and office developments without storefronts in applicable districts, except DX districts, the street scape shall include street trees. All applicable districts is not defined but must include more than the districts listed in Section 135-5.6.2(A), since that list does not include any residential district, except the NX district along a major corridor (which is not a defined term).

Comment. It is unclear what constitutes a major renovation of a sidewalk. Does this mean that anytime a resident is required to replace the sidewalk adjacent to their residence or business, they can be required to plant a street tree? Iowa Code § 364.12(b) and (c) provides that the City can by ordinance elect to require a property owner to maintain the sidewalk and parking area but expressly provides that the City cannot require the abutting property owner to remove diseased trees or dead wood on the publically owned right-of-way. This means the Section 135-5.7.1(C), as applied to street trees, is illegal and should be amended to exclude street trees. Furthermore, a requirement to maintain is not the same as a requirement to plant a street tree and based on existing case law regarding the lack of the City's ability to require the adjacent property owner to remove snow or ice or to repair sidewalks unless the state statute expressly and narrowly authorizes such an ordinance, arguably means that the requirement to plant street trees or replace dead street trees removed by the City is probably illegal. If the City cannot require the adjacent property owner to remove diseased trees or dead wood from the parking and cannot require the adjacent property owner to plant street trees, it cannot assess the adjacent property owner for the costs of the City to do so.

**Solution: The requirement to plant street trees should be eliminated. The requirement to remove and replace dead or diseased trees or remove dead wood should be eliminated as it is contrary to state statute.**

- (xiii) Section 135-5.2.3(F) requires that “compost and organic matter shall be utilized within the soil mix to reduce the need for fertilizers and increase water retention.” There is no standard to determine what this requirement means. This requirement will add cost to all projects. Section 135-5.3.2 allows unpaved areas of the parking or private lots to be planted with sodded grass. How does this requirement interact with the permissible installation of sod? This standard is too uncertain to be enforced and creates an unknown additional expense for development.

**Solution: This requirement should be deleted.**

- (xiv) Section 135-5.7(B) requires that all landscaping and trees shall be maintained according to the most recent edition of the American National Standards Institute, including its provisions on pruning, fertilizing, support systems, lightening protection, and safety. The American National Standards Institute publishes standards on a number of matters and this does not provide sufficient identification as to what standards are being referenced. This attempt to

incorporate the most recent edition of the American National Standards Institute on this subject matter, as the same may be amended from time to time, is an illegal delegation of the City Council's legislative authority to establish zoning regulations to an outside body. The City may be able to adopt such standards as they exist in a particular edition of such referenced document that uniquely identifies the standards being adopted by reference, in the same manner it adopts a building code, after copies of the proposed standards to be adopted by incorporation are placed in the city clerk's office and notice that expressly references such document and its availability for review in the City Clerk's office is published and a public hearing is held, all in accordance with Iowa Code 380.10. Typically, the City makes local exceptions to such national standards. In this case, it would be required to carve out the street tree maintenance exceptions mandated by Iowa Code §368.12(c). Without substantial public expense to educate the public on what those standards would require, it appears unreasonable to expect the public to comply with them before they mow their lawn, fertilize their lawn, trees or flowers, trim shoots growing on their crab apples, trim their bushes, or trim or deadhead flowers and so forth and it would be bad public policy to make those actions criminal or subject to substantial civil penalties,, when any enforcement will likely be arbitrary, non-uniform, and only occur upon complaint, often arising out of neighbor disputes.

**Solution: Section 135-5.7(B) should be deleted. If a variation of it is to be included, only the requirements of a specific edition of such rules can be adopted after appropriate notice and public hearing, and only if the reference is specific enough to unambiguously identify a particular set of standards by reference. Before the city council should consider adopting such standards by reference, it should receive a detailed report as to what such standards would require, what exceptions are appropriate, how such standards are to be enforced and interpreted and how someone can challenge the application of those standards short of as a defendant in a criminal or civil fine situation.**

- (xv) Section 135-5.12.5 requires screening of mechanical equipment, such as air conditioners, visible from public right of way or adjacent property, the nature of screening depends on the height of the equipment. This will require that all exterior air conditioning units be screened.
- (xvi) Section 135-5.13 sets forth fence and wall requirements. It requires fences to set back from property line at least 6", unless both property owners sign permit and agree to common property line fence.

Comment. It is not clear why this section creates a fence setback of at least 6" from the property line. This will create confusion as to who owns and maintains the property outside the fence and may create future arguments about property lines, although code requirement may preclude acquiescence argument. Why should a property owner have to maintain a neighbor's property outside that neighbor's fence? Why should the neighbor have a right to trespass onto one's

property to maintain the neighbor's property? If both neighbors erect fences but do not have a fence sharing agreement, this will create an area that no one will maintain and that will become an eyesore and possible source for weeds and vermin.

**Solution:** An owner should have the right to build the fence upon their property line.

#### **IV. Other Building Type, Permitted Use or Zoning Classification Issues.**

As an example, the City encouraged the development of flex-office buildings in the Riverpoint Area in the last 30 years, including by granting tax abatement and by tax increment economic development grants under urban renewal agreements. Many of these tenants desire this product in close location to the downtown and to easy access to the airport and freeways. The flex-office buildings are typically a single story building with drive in or dock high doors at the rear and parking in front and on the sides of the building such that the buildings are set back by parking stalls, driveways and landscaped areas from the property lines. In some cases, there may be multiple buildings on the same lot or each building may be on a separate lot, but there are common driveways serving multiple buildings and their respective parking areas. The General Building Type or the Workshop/Warehouse Building Type allowed in the EX, I1 an I2 districts comes closest to describing these type of buildings. It may have a mix of users, including office users, medical users, governmental office buildings, light industrial users, office showroom space with about 10% office or showroom and 90% warehouse for product, materials, supplies and equipment. It may involve storage of vehicles or equipment, such as Federal Express trucks, US Mail delivery vehicles or drilling equipment for a user such as Terracon. The City proposes to zone this area as DX2 district. These single story building types are not allowed in this area. Some of these uses are not clearly allowed in this area. Thus, almost all of these buildings and many of the occupants will be declared nonconforming. This designation of recently developed uses as nonconforming may adversely affect the ability to finance, refinance or sell these buildings to lease or occupy these buildings and to meet the needs for some nonconforming tenants to grow and stay in Des Moines. The owner of a large amount of the land previously tried to build a 3-story building in this area, which is the new allowed minimum building height, with difficult success in marketing the space.

It appears that in each district, a number of different proposed building type regulations for such district may make existing buildings, including some iconic Des Moines landmarks, non-conforming, such as 801 Grand Avenue, which suffers from the same problem that other single user buildings have, of not having sufficient entrances every X feet along the primary street frontages abutting such building, or the Wellmark headquarters, which does not have sufficient portion of front facade of its building within the primary frontage build-to-zone, or such as the new parking garage now being constructed at 7<sup>th</sup> and Grand, which does not have the required occupied space for the front 30-feet of all full height floors on the primary street frontages abutting such project and which may have an entrance from a primary street frontage.

**Solutions:** One solution would be to rezone the Riverfront area discussed above as EX, not as DX2. A second solution would be to clarify some of the permitted uses so that the uses currently occurring in this area are allowed uses or to amend the proposed list of uses for

**this area to allow the uses that are currently existing in that area. A third solution would be to amend the building types permitted in the DX2 area to include the General Building Type and/or the Workshop/Warehouse Building Type. The City Council has the ultimate responsibility for adoption of this ordinance and will need to conduct a detailed analysis of each area of town to consider the correctness of the proposed zoning district whether additional or other building types should be allowed in that area and whether additional uses should be allowed in that area.**

## **V. Type 1 and 2 Exceptions**

### **A. General Iowa Law regarding granting exceptions or variances to zoning regulations.**

Chapter 134 defines the different zoning districts and describes the permitted uses allowed within those zoning districts. It also provides regulations for the construction and locations of wireless towers and signage on properties. Finally, it provides rules and regulations regarding granting conditional use permits, exceptions and variances, and amendment of the zoning regulations and zoning district and other related zoning maps, and, as such, is a zoning ordinance within the meaning of Iowa Code Chapter 414. Likewise, Chapter 135 regulates the height, number of stories and size of buildings and other structures, the percentage of the lot that may be occupied, the size of yards, courts and other spaces, the location and use of buildings, structures and land for trade, industry, residence, or other purposes and, as such, is a zoning ordinance within the meaning of Iowa Code Chapter 414. Under Iowa Code § 414.7, only the zoning board of adjustment can grant special exceptions (including conditional use permits) to the terms of such a zoning ordinance or grant a variance to such requirements. *See, Holland v City Council of Decorah*, 662 N.W.2d 681 (Iowa, 2003); *City of Des Moines v Lohner*, 168 N.W.2d 779 (Iowa, 1969); *Depue v City of Clinton*, 160 N.W.2d 860 (Iowa, 1968).

### **B. Chapter 135-6 mixes site plan approval and granting zoning exceptions and variances.**

A site plan is a map showing the configuration of the property, the location and dimensions of proposed buildings, landscape detail, engineering data and other factual information related to the intended development of the property. The site plan allows the city to assure compliance with the city zoning regulations and other various city codes and regulations. The approval of a site development plan is not itself rezoning of the property. *Kane v. City Council of Cedar Rapids*, 537 N.W.2d 718, 722 (Iowa, 1995). However, if an exception or variance from the zoning requirements is needed before a site plan can be approved, then only the zoning board of adjustment can grant that under Iowa Code §§414.7 and 414.10.

Section 135-6.2.3(A) authorizes the plan and zoning commission to approve requests for relief from the strict compliance with the building type regulations of Chapter 135, Article 1, and the design regulations of Chapter 135, Article 2 that are not expressly Type 1 exceptions and to hear and decide appeals of the community development director's decisions on Type 1 exceptions thereto. This violates Chapter 414 of the Iowa Code. The zoning board of adjustment must be substituted for the plan and zoning commission in 135-6.2.3.

### C. Type 1 Design Exceptions.

Section 134-6.5.2 and Section 135-6.2.2 define certain Type 1 exceptions that the ordinance allows the community development director to make in the first instance. This appears to be a valid procedure, if the community development director is viewed as a hearing officer for the board of adjustment and if due process is accorded to those who will be affected by the decision. However, any person who is aggrieved by the decision of the community development director in granting, granting subject to conditions, or denying a request for a Type 1 exception should have the right to appeal that decision to the zoning board of adjustment to comply with Iowa Code Section § 414.10. The different standards by which the community development director can grant a Type 1 exception should be combined into Section 134-6.5. Section 134-6.5.5 requires the community development director to give notice to the abutting property owners and to give a deadline for receipt of comments regarding the proposal, all of which comments are public records available for inspection by any interested party. This would seem to provide due process. However, consideration may be given to widening the people to receive notice of the pending application for a Type 1 exception to include others who reasonably could be considered aggrieved. For example, a height variance may affect not only the abutting neighbor, but may affect persons whose sight line would be obstructed by that change. If they are not notified, but later learn of the variance, for example after a building permit was granted and construction started, they may still be able to appeal to the zoning board of adjustment or to court to enjoin such action. The party seeking the Type 1 exception, also is benefited if the ability to later challenge that exception is reduced by timely notice up front. Section 134-6.5 should be amended to add a new subsection 134-6.5.12 that provides that any person aggrieved by the decision of the community development director may appeal that decision to the zoning board of adjustment by filing such appeal within 30 days after the community development director issues his or her written decision regarding the Type 1 exception request.

### D. Type 2 Exceptions.

Section 135-6.6 grants authority to make certain designated Type 2 exceptions to the zoning board of adjustment. Section 135-6.2.3 grants authority to make certain designated Type 2 exceptions in connection with site plan reviews to the plan and zoning commission. As discussed above, that violates Chapter 414 of the Iowa Code. The exceptions covered by Section 135-6.2.3 should be moved to Section 134-6.6 and only the zoning board of adjustment has the power to grant those exceptions.

**Solution: Eliminate sections 135-6.2.2 and 135-6.2.3 as separate sections. Place the definitions of all of Type 1 exception that can be granted in section 134-6.5.2. Place the definitions of all of the Type 2 exceptions that can be granted in section 134-6.6.2. Add a new section 134-6.5.12 that provides any person aggrieved by the decision of the community development director may appeal that decision to the zoning board of adjustment by filing such appeal within 30 days after the community development director issues his or her written decision regarding the Type 1 exception request.**



September 29, 2017

*Via Regular mail and E-mail*

Mike Ludwig  
Planning Administrator  
City of Des Moines  
602 Robert D Ray Drive, 1st Floor  
Des Moines, IA 50309  
[mgludwig@dmgov.org](mailto:mgludwig@dmgov.org)

**Re: Proposed Municipal Code Comments (From QuikTrip Corporation)**

Dear City of Des Moines:

The undersigned is contacting you on behalf of QuikTrip Corporation, and in regards to the pending Public Review Draft of the City's Proposed New Zoning Code. We thank you for including QuikTrip Corporation in one of the "stakeholder" meetings during this process and we hope that the comments herein can help you improve the currently proposed "convenience store / fueling station" specific code sections.

In short, there are three major issues presented by the current draft of the proposed Zoning Code, which are 1) Building placement and orientation; 2) Parking space limitations; and 3) Site Access limitations. The currently proposed language related to these three items will undoubtedly chill any new development and redevelopment of existing stores by QuikTrip within the City of Des Moines. The reasons are as follows:

- A. Building Placement / Orientation: The proposed code provisions seek to require all store buildings to be located along street frontage on a corner of the site. Further, all pump stations and canopies would be required to be located in the rear or interior side yard of the site. From a safety, operational and profitability standpoint, these requirements are simply unworkable for a successful QuikTrip store.
- B. Access Limitations: It would appear that based on the proposed code provisions, each store site would be allowed, at most two driveways, and access on to "primary" streets is discouraged if not prohibited. Ease and quality of access is a key factor in the success of a store and accordingly the decision to develop or redevelop a site.
- C. Parking Limitations: It would appear that based on the proposed code provisions, and factoring in the current building size of the current generation of QuikTrip store, a new or redeveloped QuikTrip store would be limited to 16 parking spaces. This would wholly frustrate the safety, operations and profitability of any operation but

Mike Ludwig

September 29, 2017

Page 2

especially one that is vehicle oriented. This extreme limitation would appear to run contrary to the stated goal of accommodating business operations and public needs.

These design requirements and limitations appear to apply to any and all convenience stores / fueling stations regardless of the location of the sites within the city, which allows for no flexibility based on the area, neighborhood, district, etc. There are additional concerns with certain procedural proposals that could ultimately work to delay any development and redevelopment approvals and potentially drive up the costs related to the same. Further, certain proposed landscaping, buffer and streetscape requirements may be impractical and unworkable as written.

We'd respectfully ask that the above-referenced issues be addressed in the next draft of the proposed Code, and we'd be willing to discuss these issues in more detail to assist in a more workable Code for all. QuikTrip has a long history in the City of Des Moines, and hopes that there can be a long and mutually beneficial future. That said, key modifications to the proposed Code draft will be required to ensure the same.

Very truly yours,

A handwritten signature in black ink, appearing to read "Benjamin D. Bruner". The signature is stylized with a large initial "B" and a long horizontal stroke extending to the right.

Benjamin D. Bruner

BDB/rn

Document2

September 29, 2017

City of Des Moines  
Attn: Scott Sanders and Mike Ludwig  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309



*Always Breaking New Ground!*

6900 Westown Parkway  
West Des Moines, IA 50266  
www.hubbellrealty.com  
515-243-3228  
FAX 515-280-2000

Dear Scott Sanders and Mike Ludwig:

On behalf of Hubbell Realty Company, we want to thank you for your work on the PlanDSM Proposed Zoning Ordinance and Zoning Maps Draft and for allowing additional time to review the extensive amount of information. Our goal is to continue to develop, build and redevelop communities where people want to live, work and play through developing great places to live for various target markets, promoting and expanding businesses, and providing arts, restaurants and recreation. We believe that this can be accomplished in the City of Des Moines by a collaborative effort by private and public stakeholders. We believe that there is still work to be done on the PlanDSM Proposed Zoning Ordinance and Zoning Maps Draft dated August 3, 2017 ("Proposed Zoning Ordinance"). Enclosed you will find detailed comments attached as Exhibit A, which are in addition to the comments provided by Hubbell Realty Company on September 5, 2017. In addition, Hubbell Realty Company, as a member, supports the comments provided on behalf of the Home Builders Association of Greater Des Moines.

As further detailed in Exhibit A, I have set forth below the most important concerns that we have with the Proposed Zoning Ordinance and a brief summary of the concerns:

1. **Large Scale Development.** The Large Scale Development set forth in Chapter 135-3 of the Proposed Zoning Code appears that it is intended to be a replacement of the Planned Unit Development (PUD) process in the current zoning code at Chapter 134, Section 134-691 to 134-708. The PUD process in the current zoning code works very well to provide the City developments that the City wants and has been a successful tool to encourage quality developments of vacant or underutilized property. In addition, this is a security blanket for the new form base code. If the Proposed Zoning Code works the way that form based code is supposed to work then the PUD will naturally not be needed and if there are issues with the Proposed Zoning Code the PUD is an opportunity to get the developments that the City wants. We recommend that the Chapter 135-3, Large Scale Development, in the Proposed Zoning Code, is substituted in its entirety with the PUD process from the current code.
2. **Nonconformities.** Chapter 134-7 of the Proposed Zoning Code sets forth the Nonconforming Uses, Nonconforming Lots, Nonconforming Buildings, and Nonconforming Structures. The comments to this are two-fold, (1) Nonconforming Uses should match to the current use of the building except where the City desires to remove that use from that particular Property and (2) there should be a third threshold for purposes of attracting and retaining tenants and keeping financing and insurance affordable. There are many Nonconforming Uses that are within the new Districts that promote the growth of Des Moines and allow Des Moines to be a great place to live, work and play. The City needs to test the Nonconforming Use requirements to ensure those businesses and uses that promote growth are allowed uses within the Districts that have been assigned. In addition, subject to the approval of interested third parties such as Iowa Title Guaranty, title insurance companies, and lenders, the City should add a "Compliant" threshold similar to the City of Denver that will provide for those buildings that are compliant with the current zoning code however they have certain limited restrictions upon complete demolition of the building. Using a "Compliant" standard instead of

“Nonconforming” standard may allow nonconforming lots, buildings, and structures to obtain financing.

3. **Neighborhood Districts.** Revise Neighborhood Districts to conventional zoning standards only without restrictions on Building Types and Design Requirements. The reason for this is that the suburban residential property in Des Moines is not going to substantially change over the next 20 years and there is no need to make substantial changes to the zoning code that are not helpful or necessary to these communities. Conventional zoning will effectively regulate these areas and changing the zoning will cause increased costs to these Districts. The conventional zoning will model the current zoning code with regard to residential property. The other residential districts that are located in walkable urban areas such as DXR, RX1, and RX2 will have Building Type and Design Requirements as these are the areas that substantial changes are expected in the next 20 years.
4. **Review and Approval Procedures.** The Review and Approval Procedures in 134 and 135 requires additional and effective review and rework. The first concern with the Review and Approval Procedures is that there are sections that are confusing to the users and there are sections that do not comply with Iowa Code §414. It is understood that this Proposed Zoning Code will be established by the City Council to allow City staff with more authority for administrative approvals to streamline the process. In order to do this there needs to be a clear set of standards to prevent the process from being subjective and such standards are not clearly provided in this Proposed Zoning Code. City Council and Steering Committee should review the Review and Approval process carefully to fully understand and provide directive on how to prevent the process from being subjective.
5. **What are the Consequences of the Proposed Zoning Code.** Has the City completed valuable reviews on the consequences of the proposed zoning code and tested the changes the property by asking questions such as: (1) is there infrastructure in place to provide adequate service to areas that are being zoned for higher density and if not is that infrastructure on a planned schedule; (2) what are the number of properties that are looking at a substantial rezone, does the rezoning help these properties, and how many properties affected by the rezoning are intentionally rezoned to remove the building type or use of the property; and (3) has the city reviewed the properties that have received financial incentives from the City within the last 10-20 years to build a certain product and is that product required to change under the Proposed Zoning Code. In addition, we have concerns that the market for the City of Des Moines does not support some of the changes to the Downtown Districts, including but not limited to a minimum requirement of three-story buildings which we believe should be one story minimums, promoting to increase retail space which we believe is not sustainable and will be vacant, and removing several uses that are important to the downtown districts.
6. **Implementation and Transition Plan.** The Proposed Zoning Ordinance states that if buildings, developments or structures have a building permit then they can continue to build even if they do not comply with the Proposed Zoning Ordinance. This does not allow for the any property owner to be grandfathered in based on the timely submission of a rezoning application, conceptual plan, or site plan if that project does not have a building permit. There are several factors to obtaining building permits that are outside of the purview of this Proposed Zoning Ordinance and therefore a different standard for grandfathering properties needs to be part of the implementation of the Proposed Zoning Ordinance. The City needs to develop a transition plan to allow development to continue for developments that have relied on the current zoning code.
7. **Historic Buildings and Historic Districts.** To promote the purpose of City Ordinance Chapter 58, any Historic Building should be exempt from the sign requirements in Chapter 134, certain building requirements set forth in Chapter 135, the design requirements in Chapter 135, and the parking

requirements in Chapter 135. Under the Proposed Zoning Code there are no exemptions or ability to perform historic rehabilitations to developments and any historic buildings are nonconforming.

8. **Accessibility.** There are some concerns that the design and building type requirements set forth in Chapter 135 do not meet accessibility requirements under the Americans with Disabilities Act of 1990 and the Fair Housing Act where applicable. For example, Flat Building Type set forth in 135-1.11 states that this building type is for multiple residential units and that the Required Entrance Elevation under RX2, DXR and NX3 shall be between 2.5 and 6 feet above the public sidewalk. If this is the primary door, a stoop or porch between 2.5 and 6 feet above the public sidewalk is not accessible to a person with a mobility disability. Because the building designs and building types set forth in the Proposed Zoning Code specifically state what property owners may build and property owners will rely on these building designs, the Proposed Zoning Code should be reviewed for errors that cause buildings types and design guidelines to be discriminatory or noncompliant with ADA and FHA requirements.
  
9. **Permitted Driveway Access.** Permitted Driveway Access for various building types are required to be from an alley or non-primary street. The driveway access for these building types are based on the site layout and property specific. Disallowing driveway access from primary streets is arbitrary and should be reviewed on a property by property basis. Setting a preferred method and allowing other methods as necessary is acceptable. Therefore, Driveway Access for various buildings should be amended to state: “Permitted Driveway Access – Alley, if no alley exists or is planned, then one driveway off non-primary street, if no non-primary street access, then one driveway off primary street.”

Thank you for your consideration of our comments and we hope to work with you on future changes to the Proposed Zoning Code.

Sincerely,



Ashley Aust  
Associate General Counsel  
HUBBELL REALTY COMPANY  
6900 Westown Parkway  
West Des Moines, Iowa 50266

CC: Franklin Cownie, Bill Gray, Linda Westergaard, Christine Hensley, Joe Gatto, Chris Coleman, and Skip Moore

**EXHIBIT A**  
**COMMENTS FROM HUBBELL REALTY COMPANY**

**GENERAL COMMENTS ON ZONING MAPS:**

1. Zoning Map 1:
  - a. There is an error on Zoning Map 1 at Beaver and Amick Ave owned by Beaverdale Senior Housing, LLC, the area is zoned MX1 however this was zoned PUD on November 23, 2015 – please change this zoning district to PUD.
  
2. Zoning Map 2:
  - a. There is an error on Zoning Map 2 at the corner of 9<sup>th</sup> Street and Crocker Street, one portion zoned P1 and one portion zoned RX1 – please change these zoning districts to RX2 to amend to be the same as remainder property owned by HRC 8<sup>th</sup> Street II, LLC.
  
  - b. On Zoning Map 2 at 121 12<sup>th</sup> Street, we cannot tell what this zoning district is and it appears to be in a transition area. Can you let us know what this is zoned?

**GENERAL COMMENTS ON CHAPTER 134 AND 135**

1. Large Scale Development. The Large Scale Development set forth in Chapter 135-3 of the Proposed Zoning Code appears that it is intended to be a replacement of the Planned Unit Development (PUD) process in the current zoning code at Chapter 134, Section 134-691 to 134-708. The PUD process in the current zoning code works very well to provide the City developments that the City wants and has been a successful tool to encourage quality developments of vacant or underutilized property. In addition, this is a security blanket for the new form base code. If the Proposed Zoning Code works the way that form based code is supposed to work then the PUD will naturally not be needed and if there are issues with the Proposed Zoning Code the PUD is an opportunity to get the developments that the City wants. We recommend that the Chapter 135-3, Large Scale Development, in the Proposed Zoning Code, is substituted in its entirety with the PUD process from the current code. It is understood that this does not allow for an easy and efficient process through the community development director and it is acceptable to go through the PUD process that requires City Council approval.
  
2. Adequate Infrastructure. With the drafting of the Proposed Zoning Code, it is our understanding that the City desires to use the Proposed Zoning Code to increase density. Please confirm that the City has reviewed the infrastructure City-wide and that the City can accommodate the required increased density set forth in the Proposed Zoning Code. If there are areas that the Proposed Zoning Code requires increased density that does not have adequate infrastructure to accommodate the required increased density, then the City needs to provide notice to the Steering Committee and Council of the areas that do not have adequate infrastructure and its timeline for the modification to that infrastructure to accommodate the required increased density.
  
3. Primary Street Map. The Proposed Zoning Code references a Primary Street Map which sets forth the Primary Streets however this map is not included with the zoning maps. Please provide the Primary Street Map so that all interested parties can review the Primary Street Map with the requirements relating to those Primary Streets set forth in the Proposed Zoning Code.
  
4. Permitted Driveway Access. Permitted Driveway Access for various building types are required to be from an alley or non-primary street. The driveway access for these building types are based on the site layout and property specific. Disallowing driveway access from primary streets is arbitrary and should be reviewed on a property by property basis. Setting a preferred method and allowing other methods as necessary is acceptable. Therefore, Driveway Access for various

buildings should be amended to state: “Permitted Driveway Access – Alley, if no alley exists or is planned, then one driveway off non-primary street, if no non-primary street access, then one driveway off primary street.”

5. Downtown Des Moines Retail Assessment. There was a report that was just completed of the Downtown Retail Assessment through a market study completed by the Greater Des Moines Partnership, the City, Urban Land Institute Iowa, and Maureen McAvey that states Des Moines is over-retailed. This study is available online at <http://www.downtowndesmoines.com/studies-reports-plans>. We do not believe that the downtown market will support significant increases in downtown retail space and we believe that the downtown district use priorities should be adjusted to reduce the desired amount of retail space.
6. Historic Buildings and Historic Districts. To promote the purpose of City Ordinance Chapter 58, any Historic Building should be exempt from the sign requirements in Chapter 134, certain building requirements set forth in Chapter 135, the design requirements in Chapter 135, and the parking requirements in Chapter 135
7. Accessibility. There are some concerns that the design and building type requirements set forth in Chapter 135 do not meet accessibility requirements under the Americans with Disabilities Act of 1990 and the Fair Housing Act where applicable. For example, Flat Building Type set forth in 135-1.11 states that this building type is for multiple residential units and that the Required Entrance Elevation under RX2, DXR and NX3 shall be between 2.5 and 6 feet above the public sidewalk. If this is the primary door, a stoop or porch between 2.5 and 6 feet above the public sidewalk is not accessible to a person with a mobility disability. Because the building designs and building types set forth in the Proposed Zoning Code specifically state what property owners may build and property owners will rely on these building designs, the Proposed Zoning Code should be reviewed for errors that cause buildings types and design guidelines to be discriminatory or noncompliant with ADA and FHA requirements.
8. Staff Level Approvals. This Proposed Zoning Code provides that the elected and appointed officials are delegating a significant amount of authority to the staff to enable more administrative approvals and streamline the process. There needs to be a clear set of standards to prevent this process from being subjective. In addition, it is not entirely clear the process if an applicant cannot get approval from the staff level and desires to obtain approval from the ‘secondary approach’ through the elected and appointed officials. We recommend that the Review and Approval Procedures under 134 and 135 be reviewed and revised to set clear and objective standards for staff and to clearly define what an applicant does if they desire to obtain approval from the secondary approach.
9. Building Types. The Building Types set forth in Chapter 135 do not provide adequate information and requires the user must aggregate the different building types in a zoning district, apply the form standards, and then assume some type of mix of buildings to see what the zoning district allows. This should not be the responsibility of the user and this should be clear in the code. This is in contrast to the recommended practice of setting general standards for a zoning district and then refining those for each building type that’s allowed in each district. This section should be revised to clearly define the zoning district, the intent of the zoning district and setting forth each building type allowed in the district and use the graph as a supplement and not the defining factor for building types.

10. Design Requirements. The material requirements appear to be excessively restrictive and undermine the integrity of the architect and design professionals. In addition the material transitions do not make sense from the standpoint of material thickness and installation techniques. The only way to achieve such depth variation is with frame of the building, which complicates the structural design and adds costs for little or no benefit to the citizens of Des Moines. Therefore, we suggest that the City review the material requirements with architect and design professionals. In addition, the Design Requirements have no way to evolve as designs change unless approved by the community development director with a Type 1 exception. The design standards in the Proposed Zoning Code go further than any other Form Based Code that have been implemented, the Proposed Zoning Code needs to allow for the design to change consistent with what the market demands. If the Proposed Zoning Code is not flexible enough, you will see movement back to the suburbs where the codes allow the market to dictate the design. Making the design requirements flexible is within the goals of the Comprehensive Plan which states the land use regulations should “*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.*”
11. Mechanical Equipment & Appurtenances. The Mechanical Equipment & Appurtenances requirements set forth in Chapter 135-2.5 are too restrictive and if implemented will cause the size of mechanical equipment to be increased to facilitate the requirements and cause buildings to be substantially less energy efficient. A priority set forth in the Comprehensive Plan is to “strive to reduce greenhouse gas emissions by encouraging energy efficient buildings, reduce vehicle miles traveled, increasing landscape plantings, and utilizing green infrastructure.” The Mechanical Equipment & Appurtenances requirements do not meet this priority of the Comprehensive Plan, therefore we request this section is reviewed and revised to fit standard construction requirements that make cause buildings to be more energy efficient.
12. Reference to Development Administrator. There are references to ‘development administrator’ in several areas of the Proposed Zoning Code. Please either define ‘development administrator’ or if it is meant to state ‘community development director’ then please amend.

**COMMENTS INCORPORATING SUGGESTED CHANGES:  
CHAPTER 134, ARTICLE 2 - DISTRICTS:**

Proposed Zoning Ordinance:	Proposed Amendment:
2.1.2 (A) No building, structure or land may be used and no building or structure may be erected or altered, except in conformity with the regulations prescribed in these regulations for the district in which such building, structure or land is located.	2.1.2 (A) No building, structure or land may be used and no building or structure may be erected or altered, except in conformity with the regulations prescribed in these regulations for the district in which such building, structure or land is located <u>unless otherwise set forth in this zoning ordinance.</u>
2.2.9 (A) No applications to establish new PUD zoning districts or to expand the boundaries of existing PUD zoning districts may be accepted for processing after the effective date specified in 134-1.3, except that any PUD rezoning applications that were in process on the effective date specified in 134-1.3 may continue to be processed and may be	2.2.9 DELETE – See comment below with regard to Chapter 135, Article 3 – Large-Scale Development.

<p>approved in accordance with the transitional provisions of 134-1.11.</p> <p>(B) Land classified in a PUD zoning district on the effective date specified in 134-1.3 will continue to be classified in a PUD district and governed by the ordinance approving the PUD zoning designation and all applicable conditions of approval and development plans associated with the approved development until the subject PUD is abandoned or the property is rezoned to another (non-PUD) classification.</p> <p>(C) All amendments to existing PUDs and final development plans for existing PUDs must be reviewed and approved by the city council after review and recommendation by the plan and zoning commission, following the same general process as a zoning map amendment (see 134-6.3).</p>	
--	--

**CHAPTER 134, ARTICLE 3 – USES:**

Proposed Zoning Ordinance:	Proposed Amendment:
<p>Table 3.1.1 Under District DX2:</p> <ol style="list-style-type: none"> <li>1) Use Category Self-service Storage is a prohibited use (-).</li> <li>2) Use Category Industrial, Subcategory Fabrication and Production – Limited is a prohibited use (-).</li> <li>3) Use Category Industrial, Subcategory Industrial Service is a prohibited use (-).</li> <li>4) Use Category Industrial, Subcategory Storage, Distribution and Wholesaling – Warehouse is a prohibited use (-).</li> <li>5) Under Category Industrial, Subcategory Storage, Distribution and Wholesaling – Wholesale sales and distribution is a prohibited use (-).</li> </ol>	<p>Table 3.1.1 Under District DX2:</p> <ol style="list-style-type: none"> <li>1) Add Use Category Self-service Storage as permitted as-of-right in the subject zoning district (●).</li> <li>2) Under Use Category Industrial, add Subcategory Fabrication and Production – Limited as permitted as-of-right in the subject zoning district (●).</li> <li>3) Under Use Category Industrial, add Industrial Service as permitted as-of-right in the subject zoning district (●).</li> <li>4) Under Use Category Industrial, add Subcategory Storage, Distribution and Wholesaling – Warehouse as permitted as-of-right in the subject zoning district (●).</li> <li>5) Under Use Category Industrial, add Subcategory Storage, Distribution and Wholesaling – Wholesale sales and distribution as permitted as-of-right in the subject zoning district (●).</li> </ol>
<p>Table 3.1.1 Under District DXR:</p> <ol style="list-style-type: none"> <li>1) Use Category Self-service Storage is a prohibited use (-).</li> <li>2) Use Category Industrial, Subcategory Fabrication and Production – Limited is a prohibited use (-).</li> <li>3) Use Category Industrial, Subcategory Industrial Service is a prohibited use (-).</li> </ol>	<p>Table 3.1.1 Under District DXR:</p> <ol style="list-style-type: none"> <li>1) Add Use Category Self-service Storage as permitted as-of-right in the subject zoning district (●).</li> <li>2) Under Use Category Industrial, add Subcategory Fabrication and Production – Limited as permitted as-of-right in the subject zoning district (●).</li> </ol>

<p>4) Use Category Industrial, Subcategory Storage, Distribution and Wholesaling – Warehouse is a prohibited use (-).</p> <p>5) Under Category Industrial, Subcategory Storage, Distribution and Wholesaling – Wholesale sales and distribution is a prohibited use (-).</p>	<p>3) Under Use Category Industrial, add Industrial Service as permitted as-of-right in the subject zoning district (●).</p> <p>4) Under Use Category Industrial, add Subcategory Storage, Distribution and Wholesaling – Warehouse as permitted as-of-right in the subject zoning district (●).</p> <p>5) Under Use Category Industrial, add Subcategory Storage, Distribution and Wholesaling – Wholesale sales and distribution as permitted as-of-right in the subject zoning district (●).</p>
<p>134-3.8.2 Controlled Uses (Liquor, Wine and Beer Sales)</p> <p>The retail sale of alcohol liquor, wine and beer is permitted only in the zoning districts and subject to the conditions indicated in Table 3.8-1.</p>	<p>NOTE – Table 3.8-1 does not include DX1, DX2, RX1, RX2, EX, I1, and I2 Districts. Based on the statement that these sales are “permitted only in the zoning districts...in Table 3.8-1”, it appears that alcohol sales are not allowed in the above listed districts. This should be amended to include the above districts.</p>

**Note:**

1. **Self-Service Storage** Definition (134-3.5.16) – “An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designed and used to accommodate interior access to storage lockers or drive-up access from passenger vehicles.”
2. **Fabrication and Production – Limited** Definition (134-3.6.1(B)) – “Uses that process, fabricate, assemble, treat or package finished parts or products without the use of explosive or petroleum materials. The subcategory does not include the assembly of large equipment and machinery and has very limited external impacts in terms of noise, vibration, odor, hours of operation, and traffic. Common examples include apparel manufacturing, bakery products manufacturing, bottling plants, ice manufacturing, mattress manufacturing and assembly, microbreweries, micro distilleries, musical instrument manufacturing, newspaper printing and binderies.”
3. **Industrial Services** Definition (134-3.6.2) – “Uses engaged in the maintenance, repair or servicing of industrial, business, or consumer machinery. Examples include janitorial, carpet cleaning, extermination, plumbing, electrical, window cleaning and similar building maintenance services; welding shops; machine shops; heavy truck servicing and repair; publishing and lithography; redemption centers; laundry, dry-cleaning, and carpet cleaning plants; photofinishing laboratories, and other maintenance and repair services that are not otherwise classified.”
4. **Storage, Distribution and Wholesaling – Warehouse** Definition (134-3.6.3(C)) – “Uses conducted within a completely enclosed building that are engaged in long-term and short-term storage of goods and that do not meet the definition of “self-service storage” use or a “trucking and transportation terminal”.”
5. **Storage, Distribution and Wholesaling – Wholesale Sales and Distribution** Definition (134-3.6.3(D)) – “Uses engaged in the wholesale sales, bulk storage and distribution of goods. Such uses may also include incidental retail sales and wholesale showrooms. Expressly includes the following uses: bottled gas and fuel oil sales, flea markets, ice distribution centers, monument sales, portable storage building sales, vending machine sales, auctioneers, and frozen food lockers.”

**CHAPTER 134, ARTICLE 6 – REVIEW AND APPROVAL PROCEDURES:**

Proposed Zoning Ordinance:	Proposed Amendment:
<p>134-6.1.4(D) Application Completeness, Accuracy and Sufficiency</p> <p>1. An application will be considered complete and ready for processing only if it is submitted in the required number and form,</p>	<p>134-6.1.4(D) Application Completeness, Accuracy and Sufficiency</p> <p>1. An application will be considered complete and ready for processing only if it is submitted in the required number and form,</p>

<p>including a traffic study if such a study is required by staff at the preapplication meeting, and is accompanied by the required application filing and notification fees.</p> <ol style="list-style-type: none"> <li>2. If an application is determined to be incomplete, the official responsible for accepting the application must provide notice to the applicant along with an explanation of the application's deficiencies. Notice of an incomplete application may be provided by electronic mail or regular mail.</li> <li>3. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the community development director determines that the deficiencies have been corrected, the application will be placed in the first available processing cycle.</li> <li>4. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this zoning ordinance.</li> <li>5. The community development director is authorized to require that applications or plans be revised before being placed on an agenda for possible action if the community development director determines that: <ol style="list-style-type: none"> <li>a. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning ordinance requirements or other regulations;</li> <li>b. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning ordinance requirements or other regulations; or</li> <li>c. The decision-making body does not have legal authority to approve the application as it was submitted.</li> </ol> </li> </ol>	<p>including a traffic study if such a study is required by staff at the preapplication meeting, and is accompanied by the required application filing and notification fees. <u>The requirement of a traffic study may be deferred until site plan approval or final plat approval.</u></p> <ol style="list-style-type: none"> <li>2. If an application is determined to be incomplete, the official responsible for accepting the application must provide notice to the applicant along with an explanation of the application's deficiencies. Notice of an incomplete application may be provided by electronic mail or regular mail.</li> <li>3. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle <u>unless there is a dispute as set forth in subsection (5)(d) below.</u> When the community development director determines that the deficiencies have been corrected, the application will be placed in the first available processing cycle.</li> <li>4. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this zoning ordinance.</li> <li>5. The community development director is authorized to require that applications or plans be revised before being placed on an agenda for possible action if the community development director determines that: <ol style="list-style-type: none"> <li>a. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning ordinance requirements or other regulations;</li> <li>b. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning ordinance requirements or other regulations; or</li> <li>c. The decision-making body does not</li> </ol> </li> </ol>
---	--

	<p>have legal authority to approve the application as it was submitted.</p> <p>d. <u>In the event of a dispute between the applicant and the community development director, the applicant may provide a letter stating that the applicant believes there is a dispute and the community development director shall place the application or plans on the agenda for possible action with the conditions requested by the community development director.</u></p>
<p>134-6.1.5 The community development director is authorized to promulgate reasonable cycles and timelines for processing applications, including deadlines for receipt of complete applications.</p>	<p>134-6.1.5 The community development director is authorized to promulgate reasonable cycles and timelines for processing applications, including deadlines for receipt of complete applications. <u>The community development director shall provide to the public the schedule of cycles and timelines for processing applications, including deadlines for receipt of complete applications. The community development director shall provide at least 60 days public notice of any amendment to the schedule of cycles and timelines prior to the adoption of any amendment.</u></p>
<p>134-6.1.7 Required Public Hearing Notices. (A) Newspaper Notice 2. The newspaper notice must be published at least once, at least 7 days no more than 20 days before the date of the public hearing. Following publication of the notice, the public hearing may not be held earlier than the next regularly scheduled meeting date of the review or decision-making body holding the hearing.</p>	<p>134-6.1.7 Required Public Hearing Notices. (A) Newspaper Notice 2. The newspaper notice must be published at least once, at least <del>7</del> 4 days no more than 20 days before the date of the public hearing. Following publication of the notice, the public hearing may not be held earlier than the next regularly scheduled meeting date of the review or decision-making body holding the hearing. (Note: 4 days is from the Iowa Code.)</p>
<p>134-6.1.10 Action by Review and Decision-Making Bodies (A) Review and decision-making bodies may take any action that is consistent with: 1. The regulations of this zoning ordinance; and 2. Any rules or by-laws that apply to the review or decision-making body. (B) Review and decision-making bodies are authorized to continue a public hearing or defer action in order to receive additional information or further deliberate. (C) When the procedures of this article authorize approval with conditions, review bodies, including staff, are authorized to recommend</p>	<p>134-6.1.10 Action by Review and Decision-Making Bodies (A) Review and decision-making bodies may take any action that is consistent with: 1. The regulations of this zoning ordinance; and 2. Any rules or by-laws that apply to the review or decision-making body. (B) Review and decision-making bodies are authorized to continue a public hearing or defer action in order to receive additional information or further deliberate. (C) When the procedures of this article authorize approval with conditions, review bodies, including staff, are authorized to recommend</p>

<p>conditions and decision-making bodies are authorized to approve the subject application with conditions. Any conditions recommended or approved must be reasonable and imposed to satisfy public needs that are directly caused by the requested change or the proposed use or development.</p>	<p>conditions and decision-making bodies are authorized to <u>either approve the application, approve the <del>subject</del> application with conditions, or <u>disapprove the application</u></u>. Any conditions recommended or approved must be reasonable and imposed to satisfy public needs that are directly caused by the requested change or the proposed use or development.</p>
<p>134-6.1.12 Required Time Frames for Action Any time limit specified in this zoning ordinance for any decision or action on behalf of a review or decision-making body may be extended if the applicant agrees to an extension. Unless otherwise expressly stated, if a review or decision-making body does not render a decision or take action within any time period required under this zoning ordinance and the applicant has not agreed to an extension of that time limit, the application is deemed denied.</p>	<p>134-6.1.12 Required Time Frames for Action Any time limit specified in this zoning ordinance for any decision or action on behalf of a review or decision-making body may be extended if the applicant agrees to an extension. <del>Unless otherwise expressly stated, if a review or decision-making body does not render a decision or take action within any time period required under this zoning ordinance and the applicant has not agreed to an extension of that time limit, the application is deemed denied.</del> NOTE – the lack of action by a decision-making body should not be a burden to the applicant. Therefore we suggest this is just deleted.</p>
<p>134-6.3.6 Notice of Plan and Zoning Commission Hearing It is the policy of the city to provide courtesy mailed notice to all owners of the property included within the area that is the subject of the proposed zoning map amendment and to all owners of property within 250 feet of the subject property. Mailed notice is not provided for city-initiated rezoning when such notice would be impractical because of the size of the area affected.</p>	<p>134-6.3.6 Notice of Plan and Zoning Commission Hearing It is the policy of the city to provide courtesy mailed notice to all owners of the property included within the area that is the subject of the proposed zoning map amendment and to all owners of property within 250 feet of the subject property. <del>Mailed notice is not provided for city-initiated rezoning when such notice would be impractical because of the size of the area affected.</del></p>
<p>134-6.3.9 City Council Action (B) Zoning map amendments may be approved by a majority vote of all members of the city council, except that passage of the zoning map amendment requires a favorable vote of three-fourths of all members of the city council if either of the following occurs:</p> <ol style="list-style-type: none"> <li>1. The plan and zoning commission recommends denial of the zoning map amendment; or</li> <li>2. A valid protest is filed in opposition to the zoning map amendment, in accordance with 134-6.3.10.</li> </ol>	<p>134-6.3.9 City Council Action (B) Zoning map amendments may be approved by a majority vote of all members of the city council, except that passage of the zoning map amendment requires a favorable vote of three-fourths of all members of the city council if either of the following occurs:</p> <ol style="list-style-type: none"> <li>1. The plan and zoning commission recommends denial of the zoning map amendment; or</li> <li>2. A <del>valid</del> <u>written</u> protest is filed <u>with the city clerk</u> in opposition to the zoning map amendment, in accordance with 134-6.3.10.</li> </ol>
<p>134-6.3.12 Successive Applications If a zoning map amendment application has been denied by the city council, no new zoning map amendment application that includes all or part of</p>	<p>DELETE NOTE - Things change quickly in development and you do not want to prohibit a significant development for the City for one year if something</p>

the same property may be filed or considered by the city council for at least one year from the date of final action by the city council.	different has been agreed to between the City and the property owner.
<p>134-6.9.1 Authority</p> <p>Except as otherwise expressly stated in this zoning ordinance, the board of adjustment is authorized to hear and decide all appeals where it is alleged there has been an error in any written order, decision or determination made by the community development director or any other administrative official in the administration, interpretation or enforcement of this zoning ordinance.</p>	<p>134-6.9.1 Authority</p> <p>Except as otherwise expressly stated in this zoning ordinance, the board of adjustment is authorized to hear and decide all appeals <u>of where it is alleged</u> <del>there has been an error in</del> any written order, decision or determination made by the community development director or any other administrative official in the administration, interpretation or enforcement of this zoning ordinance.</p> <p>NOTE – this is correcting this section to meet the requirements of Iowa Code §414.10.</p>

**CHAPTER 134, ARTICLE 7 – NONCONFORMITIES:**

Proposed Zoning Ordinance:	Proposed Amendment:
<p>134-7.1.4 Repairs and Maintenance</p> <p>A. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this zoning ordinance.</p> <p>B. If a nonconforming structure or a structure occupied by a nonconforming use becomes unsafe or dangerous, or when a structure is found unfit for human occupancy or otherwise deemed to be a public nuisance, it may not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the district in which it is located.</p> <p>C. Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official.</p>	<p>134-7.1.4 Repairs and Maintenance</p> <p>A. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work <del>increases the extent of the nonconformity</del> or is otherwise expressly prohibited by this zoning ordinance.</p> <p>B. If a nonconforming structure or a structure occupied by a nonconforming use becomes unsafe or dangerous, or when a structure is found unfit for human occupancy or otherwise deemed to be a public nuisance, it may not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the district in which it is located.</p> <p>C. Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official <u>or to prevent historic structures from being rehabilitated.</u></p>
<p>134-7.3 Nonconforming Uses</p> <p>134-7.3.1 Description</p> <p>A nonconforming use is a use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the district in which the use is located. Lawfully established uses that do not comply with separation distance requirements (i.e., those requiring that uses be separated from the same use or protected uses by a specified minimum distance) are also deemed to be nonconforming uses.</p>	
134-7.2 Change of Use	

<p>A. A nonconforming use located in an N district may be changed only to a use that is allowed in the subject district. Once changed to a conforming use, a nonconforming use may not be re-established.</p> <p>A nonconforming use located in a district other than an N district, may be changed to a use that is allowed in the subject district, in which case the nonconforming use may not be re-established.</p> <p>A nonconforming use located in a district other than an N district, may also be changed to another nonconforming use if approved in accordance with the type zoning exception procedures of section 134-6.5. In order to approve an administrative exception for a nonconforming use substitution, <b>the community development director must determine that the proposed use substitution will not result in any increase in adverse impacts on the surrounding area when compared to the previous nonconforming use for the property.</b> In making such a determination, the community development director must consider all of the following factors, as applicable:</p> <ol style="list-style-type: none"> <li>1. Traffic to and from the site;</li> <li>2. The amount of parking required;</li> <li>3. Hours of operation;</li> <li>4. Outdoor display, storage and work activities; and</li> <li>5. Other factors likely to have an effect on the surrounding area.</li> </ol>	<p>NOTE – Is there a way to set a more objective standard here for the community development director so that it is not a subjective decision?</p>
<p>134-7.3.3 Expansion</p> <p>Unless otherwise expressly stated, nonconforming uses may not be expanded or extended to occupy a greater area than was occupied at the time the use became nonconforming unless the expansion reduces or eliminates the nonconformity. A nonconforming use of a portion of a building may be expanded or extended into the remaining portions of the building if the development administrator determines that the area of the building in which the expansion is proposed was manifestly arranged and designed for the use.</p>	<p>134-7.3.3 Expansion</p> <p>Unless otherwise expressly stated, nonconforming uses may not be expanded or extended to occupy a greater area than was occupied at the time the use became nonconforming <del>unless the expansion reduces or eliminates the noneonformity.</del> The community development director may approve a nonconforming use <del>to of a portion of a building</del> <u>may</u> be expanded or extended into the remaining portions of the building if <del>the development administrator determines that</del> the area of the building in which the expansion is proposed was manifestly arranged and designed for the use.</p>
<p>134-7.3.5 Damage or Destruction</p> <p>If a structure containing a nonconforming use is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, exclusive of the foundation, the</p>	<p>134-7.3.5 Damage or Destruction</p> <p>If a structure containing a nonconforming use is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, exclusive of the foundation, the</p>

<p>nonconforming use may not be re-established. If the structure is damaged or destroyed to the extent of less than 50% of its replacement cost at time of damage or destruction, exclusive of the foundation, the nonconforming use may be re-established to the extent it existed before the damage, provided that a permit application to allow the re-establishment is filed within 6 months of the damage.</p>	<p>nonconforming use may not be re-established. If the structure is damaged or destroyed to the extent of less than 50% of its replacement cost at time of damage or destruction, exclusive of the foundation, the nonconforming use may be re-established to the extent it existed before the damage, provided that a <b>permit application</b> to allow the re-establishment is filed within 6 months of the damage, <u>which time period may be extended for a reasonable time period upon request of the property owner.</u></p> <p>Note – “Permit Application” should be defined.</p>
<p>134-7.3.6 Loss of Nonconforming Status</p> <p>A. If a nonconforming use is changed to a conforming use, no matter how short the period of time, the nonconforming use is deemed abandoned, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.</p> <p>B. If a nonconforming use of a structure is abandoned, the use may not be re-established. A nonconforming use is deemed to have been abandoned if during the time that the use is not in place the subject property owner makes any change to the property inconsistent with the resumption of the use. Examples of changes that are inconsistent with the resumption of a use expressly include: combining 2 or more dwelling units under one water, gas, or electric meter or creating an opening between 2 dwelling units.</p> <p>C. If a nonconforming use in an N district is discontinued for more than one year for any reason whatsoever, the nonconforming use is deemed abandoned and may not be re-established. If a nonconforming use in any district other than an N district is discontinued for more than 6 months for any reason whatsoever, the nonconforming use is deemed abandoned and may not be re-established.</p>	<p>134-7.3.6 Loss of Nonconforming Status</p> <p>A. <u>Unless otherwise expressly stated, I</u>-if a nonconforming use is changed to a conforming use, no matter how short the period of time, the nonconforming use is deemed abandoned, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.</p> <p>B. <u>Unless otherwise expressly stated, I</u>-if a nonconforming use of a structure is abandoned, the use may not be re-established. A nonconforming use is deemed to have been abandoned if during the time that the use is not in place the subject property owner makes any change to the property inconsistent with the resumption of the use. Examples of changes that are inconsistent with the resumption of a use expressly include: combining 2 or more dwelling units under one water, gas, or electric meter or creating an opening between 2 dwelling units.</p> <p>If a nonconforming use in an N district is discontinued for more than one year for any reason whatsoever, the nonconforming use is deemed abandoned and may not be re-established. If a nonconforming use in any district other than an N district is discontinued for more than 6 months for any reason whatsoever, the nonconforming use is deemed abandoned and may not be re-established.</p>
<p>134-7.3.8 Liquor, Wine or Beer Sales</p> <p>Structures that are nonconforming with respect to the regulations that apply to controlled uses (see 134-3.8.2) may not be modified in any way that would alter the occupant-capacity of the business premises, and if damaged or destroyed by any means to the extent of 50% or more of its value at the time of damage or destruction, exclusive of land, may not be reconstructed for use by a business holding a liquor license or beer or wine</p>	<p>See the comment above with regard to 134-3.8.2.</p>

permit, except in compliance with the controlled use regulations of 134-3.8.2.	
134-7.3.9 Uses in Floodplain and Floodway Existing structures in F districts that are occupied in whole or in part by a nonconforming use, may not be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a use permitted in the F district. Such structures may not be moved or relocated unless the movement or relocation eliminates the nonconformity.	NOTE – We suggest further review should be completed by the City to identify how many buildings are located in the F District and the ramifications on those buildings.
134-7.4 Nonconforming Buildings	
134-7.4.1 Description A nonconforming building is a building that was lawfully established but that no longer complies with the applicable building type or design regulations of Chapter 135 because of the adoption or amendment of zoning, building type or design regulations after the structure was established.	134-7.4.1 Description A nonconforming building is a building that was lawfully established but that no longer complies with the applicable building type or design regulations of Chapter 135 because of the adoption or amendment of zoning, building type or design regulations after the <b>structure</b> was established <u>or after the commencement of construction of the structure.</u>  NOTE – you may want to change structure to building to provide clarity.
134-7.4.6 Damage or Destruction A. If a nonconforming building is damaged or destroyed by any means beyond the control of the property owner, the nonconforming building may be re-established to the extent it existed before the damage or destruction, provided that a permit application to allow the re-establishment is filed within 6 months of the damage or destruction B. If a nonconforming building is demolished, modified, damaged or destroyed by intentional act of the property owner to the extent of 50% or more of its replacement cost at time of demolition, modification, damage or destruction, the nonconforming building may not be re-established.	134-7.4.6 Damage or Destruction A. If a nonconforming building is damaged or destroyed by any means beyond the control of the property owner, the nonconforming building may be re-established to the extent it existed before the damage or destruction, provided that a permit application to allow the re-establishment is filed within 6 months of the damage or destruction, <u>which time period may be extended for a reasonable time period upon request of the property owner.</u> B. If a nonconforming building is demolished, modified, damaged or destroyed by intentional act of the property owner to the extent of 50% or more of its replacement cost at time of demolition, modification, damage or destruction, the nonconforming building may not be re-established, <u>which time period may be extended for a reasonable time period upon request of the property owner.</u>
134-7.5 Nonconforming Structures	
134-7.5.4 Damage or Destruction If a nonconforming structure is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, the nonconforming structure may not be re-established. If the structure is damaged or	134-7.5.4 Damage or Destruction If a nonconforming structure is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, the nonconforming structure may not be re-established. If the structure is damaged or

<p>destroyed to the extent of less than 50% of its replacement cost at the time of damage or destruction, the nonconforming structure may be re-established to the extent it existed before the damage or destruction, provided that a permit application to allow the re-establishment is filed within 6 months of the damage.</p>	<p>destroyed to the extent of less than 50% of its replacement cost at the time of damage or destruction, the nonconforming structure may be re-established to the extent it existed before the damage or destruction, provided that a permit application to allow the re-establishment is filed within 6 months of the damage, <u>which time period may be extended for a reasonable time period upon request of the property owner.</u></p> <p>NOTE – “Permit Application” should be defined.</p>
<p>NOTE – Can the City research a potential third declaration for nonconforming uses, lots, buildings and structures called “Compliant”. This would create three standards with regard to conforming uses and structures – (1) Conforming, (2) Compliant, and (3) Nonconforming. The City’s research will need to be looking at how this definition is accepted by title companies, insurance companies and lenders.</p>	

**CHAPTER 134, ARTICLE 8 – ADMINISTRATION AND ENFORCEMENT:**

<p>134-8.2.4 Remedies and Enforcement Powers The City has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:</p> <p>A. Fines. Any person violating any provisions of this zoning ordinance or failing to comply with any of its requirements may be deemed guilty of a misdemeanor or municipal infraction punishable in accordance with section 1-15.</p> <p>(Section 1-15 states a municipal infraction is \$750.00 for each violation, or if repeated, then \$1,000 for each repeated violation)</p> <p>B. Withhold Permit</p> <ol style="list-style-type: none"> <li>1. The community development director may deny or withhold all zoning-related permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an existing violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for subject violation.</li> <li>2. Instead of withholding or denying a permit or other authorization, the community development director may grant such authorization subject to the condition that the violation be corrected.</li> </ol> <p>C. Revoke Permits</p> <ol style="list-style-type: none"> <li>1. A permit, certificate or other form of</li> </ol>	<p>134-8.2.4 Remedies and Enforcement Powers The City has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:</p> <p>A. Fines. Any person violating any provisions of this zoning ordinance or failing to comply with any of its requirements may be <u>declared a deemed guilty of a misdemeanor</u> or municipal infraction punishable in accordance with section 1-15.</p> <p>NOTE – The current zoning code is conventional zoning standards and the proposed zoning code has a heavy focus on design standards. Due to the nature of the proposed code, it seems pretty excessive to be deemed guilty of a misdemeanor because the façade of a building doesn’t comply with the design guidelines of the zoning code. In addition, the code is much for difficult to review and could easily be misinterpreted by citizens. Therefore, we suggest lowering the standard to municipal infractions.</p>
---	---

<p>authorization required under this zoning ordinance may be revoked by the community development director when the community development director determines:</p> <ol style="list-style-type: none"> <li>a. That there are unapproved departures from approved plans or permits; or</li> <li>b. That any provision of this zoning ordinance or approval previously granted by the city is being violated.</li> </ol> <p>2. Written notice of revocation must be sent by regular mail to the subject property owner and all persons to whom the permit was issued.</p> <p>D. Stop Work</p> <ol style="list-style-type: none"> <li>1. If the zoning enforcement officer finds work being performed in a manner contrary to the provisions of this zoning ordinance or in a dangerous or unsafe manner, the zoning enforcement officer is authorized to issue a stop work order.</li> <li>2. A stop work order must be in writing and must be posted at the site of the violation. A copy of the order must also be provided to the owner of the subject property, to the owner's authorized, or to the person doing the work. Upon issuance of a stop work order, the cited work must cease immediately. The stop work order must state the reason for the order and the conditions under which the cited work is authorized to resume.</li> <li>3. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, is subject to penalties and enforcement as set out in this section.</li> </ol> <p>E. Injunctive Relief</p> <p>The city may seek an injunction or other equitable relief in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted under this or previous zoning ordinances.</p> <p>F. Forfeiture and Confiscation of Signs on Public Property.</p> <p>Any sign installed or placed on public property, including rights-of-way, except in compliance with the regulations of this zoning</p>	
--	--

<p>ordinance will be considered forfeited to the public and subject to confiscation. In addition to other remedies and penalties of this article, the city has the right to recover from the sign owner or person who placed the sign, the full costs of sign removal and disposal.</p> <p>G. Abatement</p> <ol style="list-style-type: none"> <li>1. The city may seek a court order for abatement, injunction, or other action requiring the owner to correct a violation and order that the city’s costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property on which the violation occurred, or both.</li> <li>2. The city may seek a court order authorizing the city to abate or correct the violation and order that the city’s costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property on which the violation occurred, or both.</li> </ol> <p>H. Other Penalties, Remedies and Powers. The city may seek such other penalties and remedies as are provided by law.</p> <p>I. Continuation of Previous Enforcement Actions. Nothing in this zoning ordinance prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous ordinances and laws.</p>	
<p>134-8.2.5 Remedies Cumulative The remedies and enforcement powers established in this zoning ordinance are cumulative, and the city may exercise them in any combination or order.</p>	
<p>134-8.2.6 Persons Subject to Penalties The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.</p>	<p>DELETE 134-8.2.6 It states “Any Person” in 134-8.2.4(A).</p>
<p>134-8.2.7 Enforcement Procedures Non-Emergency Emergency</p>	
<p>134-8.2.8 Appeals A determination made by the community development director, zoning enforcement officer or other administrative officials that a zoning</p>	

ordinance violation has occurred may be appealed by the affected party in accordance with section 134-6.9.

**CHAPTER 135, ARTICLE 1 – BUILDING TYPES:**

**135-1.1.5 Treatment of Yards**

Paved vehicular areas are limited to specific locations in accordance with the applicable building type regulations. The following further defines the permitted treatments of the yard areas around the buildings.

- A. Landscape, Patio, Sidewalks. All yards must consist of landscape areas, patio space, or sidewalk space, unless otherwise expressly stated. Yard area may not exceed the maximum levels of imperviousness and semi-perviousness set for each building type.
- B. Driveways. Refer to 135-4.13 for driveway design and location requirements. Driveways may cross through yards as follows:
  - 1. Front & Corner Yards. Where permitted as access to the lot, driveways may cross perpendicular through the front or street side yards. Circular drop-off drives may be permitted per the building type requirements.
  - 2. Perpendicular Crossing of Side and Rear Yards. In all districts except N districts, driveways may cross perpendicular through the side and rear yards to connect to parking on adjacent lots.
  - 3. Parallel Crossing of Side and Rear Yards. In N and NX districts, driveways accessing rear yard garages are permitted within the side or rear yard setback, up to the property line. If the driveway is shared, the minimum side yard must be provided outside the driveway.
- C. Side Yard Parking Lots. Some building types permit side yard parking lots. Side yard parking lots may not encroach on the front yard and may not encroach upon the minimum side setback.
- D. Rear Yards. Paved vehicular areas (parking lots, loading areas, drives) are typically required to be located in the rear yard; however, minimum rear yard setbacks also apply to parking lots.

The community development director may approve Landscaping, Patio, and Sidewalks that cannot reasonably meet the requirements set forth in this Section 135-1.1.5

What is this supposed to be perpendicular to?

What is this supposed to be perpendicular to?

NOTE – Please add “The community development director may approve Driveways that cannot reasonably meet the requirements set forth in this Section 135-1.1.5.”

**134-1.1.6 Primary Frontages**

A primary frontage establishes the fronts of lots and buildings and where to locate the principal

entrance to the building. A primary frontage designation requires the highest level of façade treatment and restricts locations for parking, driveways, and garage entrances. Primary frontages must be provided as follows:

A. Primary Street Frontages.

1. Mapped Street Frontages. Primary frontage requirements shall be met along those locations where primary street is designated on the primary street map. The primary street map is maintained as a geographic coverage layer with the city's geographic information system (GIS), under the direction of the community development director.
2. Residential Street Frontages. In neighborhoods (N and NX districts), primary frontage is defined by streets with a majority of front doors.

B. Open Space. Where a lot or parcel contains or abuts open space designated as a P1 district, the frontage of a building abutting the open space shall meet primary frontage requirements.

C. River Frontage. Any façade facing a river shall be treated as a primary frontage.

D. Other Public Ways. Pedestrian ways and paseos to parking lots through parcels, blocks, or buildings shall be treated as street frontage, unless a type 1 design exception per 135-6.2 is approved for a reduction in transparency and façade materials.

E. Multiple Primary Frontages. If multiple primary frontages and no other non-primary frontages exist for a lot, one primary frontage may be treated as a non-primary frontage for the building type requirements if the following is met:

1. Approval of the community development director; and
2. The configuration of other parcels along the street, including fronts of buildings and locations of vehicular access, are more consistent with non-primary requirements; and
3. No plans for primary street designation in the future exist for the proposed non-primary frontage.

F. Non-primary Frontages. Non-primary street frontages may utilize the requirements of primary street frontages.

G. **Corners. At corners of buildings on streets and**

NOTE - The City needs to provide the Primary Street Map for review with the Public Review Draft of the Proposed Zoning Code.

Corners. At corners of buildings on streets and

<p>public ways, primary frontage treatments, including such items as, but not limited to, ground story transparency, façade materials, building façade requirements, shall be continued around the corner along the non-primary street or public way for a minimum of 30 feet.</p>	<p>public ways, primary frontage treatments, including such items as, but not limited to, ground story transparency, façade materials, building façade requirements, shall be continued around the corner along the non-primary street or public way for a <del>minimum of 30 feet</del> <u>reasonable distance for that site.</u></p>
<p><b>135-1.3 Downtown Storefront</b>  1.3.3 Downtown Storefront Regulations  #2 – Minimum Primary Frontage Coverage = DX1 and DX 2 95%; DXR 80%.  #3 – DX1 and DX2 Primary Frontage Setback = 0-5ft; DXR Primary Frontage Setback = 0-10  #7 – Maximum Impervious Area – DX1, DX2 and DXR = 90%; Additional Semi-Pervious Area = 10%.  #9 – Permitted Driveway Access = Alley; If no Alley exists or is planned, one driveway off of each non-primary street allowed.  #10 – Minimum Height = DX1 5 stories; DX2 and DXR 3 stories.  #13 and #14 – Ground Story Height – DX1, DX2, and DXR Min 15; DX1 and DX 2 Max 24 and DXR Max 18; All other stories – DX1, DX2, and DXR Min 9; DX1 Max 14 and DX2 and DXR Max 12.  #16, 17, 18 and 19 – Use requirements for specific square feet  #20 and 21 – transparency requirements  #22 – entrance requirements – minimum of one entrance per 60 feet of primary street façade  #23 – Requires entrance to be recessed 3’ – 8’  #25 – vertical shadow line required every 30’ of façade width  #26 – horizontal shadow line within 3’ of top of the ground story  #27 – Permitted roof types: DX1 – parapet, flat; tower permitted; special roof option for high-rise; DX2 – parapet, flat; tower permitted; DXR – Parapet, flat, pitched; Tower permitted.  Notes:  #4 – River Frontage. The following applies to all lots abutting a river or riverfront park.  a. Setback from River. A minimum setback of 100 ft is required from the high water mark of the river.  b. Public Right-of-Way. A public right-of-way is required between the development and any riverfront park. Refer to 3.2.2 for base street type or pedestrianway requirements. This right-of-way shall be</p>	<p>DELETE 7</p> <p>#9 – Permitted Driveway Access = Alley; If no Alley exists or is planned, one driveway off of each non-primary street allowed; <u>if no non-primary street access exists or is planned, one driveway off of each primary street.</u>  Amend #10 – Minimum Height = DX1 5 stories; DX2 and DXR <u>1 story</u> <del>3 stories</del>.  Amend #13 and #14 – Ground Story Height – <u>DX1 Min 15 ft; DX2 and DXR Min 9 ft; DX1, DX2, and DXR Min 15;</u> DX1 and DX 2 Max 24 and DXR Max 18; All other stories – DX1, DX2, and DXR Min 9; DX1 Max 14 and DX2 and DXR Max 12.  DELETE #16, 17, 18 and 19 under (C) USES.</p> <p>DELETE #23  DELETE 25 and 26 shadow line requirements.</p> <p>Amend #4 – River Frontage. The following applies to all lots abutting a river or riverfront park.  a. Setback from River. A minimum setback of 100 ft is required from the high water mark of the river <u>unless the setback otherwise meets state and federal flood protection requirements.</u>  b. Public Right-of-Way. A public right-of-way is required between the development and any riverfront park. Refer to 3.2.2 for</p>

<p>treated as a primary frontage.</p>	<p>base street type or pedestrianway requirements. This right-of-way shall be treated as a primary frontage.</p>
<p><b>135-1.4 Downtown General</b>  #2 – Minimum Primary Frontage Coverage – DX1 95%; DX2 90%; and DXR 80%  #3 – Primary Frontage Build-to-Zone – DX1 0-10; DX2 and DXR 0-15 ft;  #4 – Non-Primary Frontage Build-to Zone – DX1 and DX2 0-15; and DXR 0-20 ft  #5 – Minimum Interior Side Setback – DX1 and DX2 0; DXR 10 ft  #6 – Minimum Rear Setback – DX1 and DX2 5 ft except 0 at alley; DXR 15 ft except 0 at alley.  #7 – Maximum Impervious Area – DX1 90%, DX2 85%, and DXR 80%; Additional Semi-Pervious Area DX1 10%, DX2 15%, and DXR 15%;  #8 – Garage/Loading Entrance Location – any non-primary street or rear façade  #9 – Permitted Driveway Access – Alley; if no alley exists or is planned, one driveway off each non-primary street.  #10 – Minimum Overall Height – DX1 – 5 stories; DX2 and DXR – 3 stories.  #11 – Maximum Overall Height – DX1 – 15 stories; DX2 and DXR 8 stories;  #12 – Additional High-Rise Height – DX1 Unlimited; DX2 and DXR – not permitted.  #13 - Primary Frontage Ground Story – Minimum Height – DX1, DX2 and DXR – 10 ft; Maximum Height – DX1 and DX2 24 ft; DXR 16ft.  #14 – All other Stories – Minimum Height DX1, DX2 and DXR – 9 stories; Maximum Height DX1 14 ft; DX2 and DXR 12 ft.  #15, #16 and #17 – Use requirements for specific square feet  #18 – Minimum Transparency per Each Story and any Half Story – 18%; blank wall limitation apply  #19 – Entrance Location &amp; Number – Principal entrance required on primary frontage façade; minimum of one per 100 ft of primary street façade.  #20 – Primary Frontage Entryway Configuration – Recessed between 3’ and 8’ from the portion of the primary frontage façade closest to the street; maximum 8’ wide if outside the build-to zone  #21 – Primary Frontage Entrance &amp; Ground Story Elevation – At least 80% of entrances and the ground story shall be within 30 inches vertically of adjacent sidewalk elevation or between 30 inches and 5 feet with visible basement (transparency</p>	<p>DELETE 7</p> <p>Amend #9 – Permitted Driveway Access - Alley; if no alley exists or is planned, one driveway off each non-primary street; <u>if no non-primary street access exists or is planned, one driveway off of each primary street.</u>  Amend #10 – DX2 and DXR minimum overall height 1 story.</p> <p>Amend #13 – Minimum Height – DX1, DX2 and DXR – 9 ft.</p> <p>DELETE (C) USES</p> <p>DELETE #18</p> <p>DELETE #20</p>

<p>required)  #22 and #23 – Vertical and Horizontal shadow line requirements  #24 – Permitted Roof Types – DX1 Parapet, flat; tower permitted; special roof option for high-rise; DX2 Parapet, flat; tower permitted; DXR Parapet, flat, pitched; tower permitted;  Notes:  #3 – River Frontage. The following applies to all lots abutting a river or riverfront park:  a. Setback from River. A minimum setback of 100 feet is required from the high water mark of the river.  b. Public Right-of-Way. A public right-of-way is required between the development and any riverfront park. Refer to 135-3.2.2 for base street type or pedestrianway requirements. This right-of-way shall be treated as a primary frontage.</p>	<p>DELETE 22 and 23</p> <p>#3 – River Frontage. The following applies to all lots abutting a river or riverfront park:  a. Setback from River. A minimum setback of 100 feet is required from the high water mark of the river <u>unless the setback otherwise meets state and federal flood protection requirements.</u>  b. Public Right-of-Way. A public right-of-way is required between the development and any riverfront park. Refer to 135-3.2.2 for base street type or pedestrianway requirements. This right-of-way shall be treated as a primary frontage.</p>
<p><b>135-1.5 Storefront</b></p>	
<p><b>135-1.6 Commercial Cottage</b></p>	
<p><b>135-1.7 General Building</b>  This is for RX1, RX2, P2, NX3, EX, I1, I2  #3 – Minimum Primary Frontage Coverage – RX1 75%; RX2 and P2 80%; NX3 80%; and EX, I1, and I2 65%.  #4 – Primary Frontage Build-to Zone - RX1 10-20 ft; RX2 and P2 15-25 ft; NX3 15-25 ft, block averaging applies; and EX, I1, and I2 5-30 ft;  #5 – Non-Primary Frontage Build-to Zone - RX1 5-20 ft; RX2 and P2 5-25 ft; NX3 5-25 ft; EX, I1 and I2 5-30 ft;  #6 – Minimum Interior Side Setback - RX1, RX2, P2 and NX3 is 10ft; EX, I1 and I2 15 ft.  #7 – Minimum Rear Setback - RX1, RX2, P2, NX3, EX, I1, and I2 – 15 ft except 5 ft at alley  #8 – Maximum Impervious Area – RX1 – 65%; RX2, P2 and NX3 – 75%; EX, I1, and I2 – 70%; Additional Semi-Pervious - RX1, RX2, P2, and NX3 – 20%; EX, I1, and I2 – 15%;  #9 – Surface Parking/Loading  Location/Garage/Loading Entrance – Rear Yard, limited side yard only, any non-primary street or rear façade.  #10 – Permitted Driveway Access – Alley; if no alley exists or is planned, one driveway off each non-primary street</p>	<p>NOTE – Outside of the downtown and mixed use areas – why are we concerned about Primary Frontage Coverage?</p> <p>NOTE – this should be reviewed for office and apartments outside of the downtown districts where parking requirements to fit the space will be greater and confirm that these requirements make sense. Amend # 9 to include Surface Parking and Loading location in Rear Yard, Side Yard, and limited primary street area; Garage and loading entrance in Rear Yard and Side Yard.  Amend #10 to allow Permitted Driveway Access from Primary Street or non-primary street or alley.</p> <p><b>NOTE - #9</b> – for apartments and office buildings there may need to be parking near the front</p>

<p>#11 – Minimum Overall Height - RX1, RX2, and P2 – 2 stories; NX3 – 3 stories; EX, I1, and I2 – one story</p> <p>#12 – Maximum Overall Height – RX1 – 3 stories; RX2 and P2 – 5 stories; 3 stories for a portions of the building within 100 feet of an N district; NX3 – 8 stories; 3 stories for portions of the building within 100 feet of an N district; EX, I1, and I2 – 5 stories.</p> <p>#15 – All other Stories – Minimum height – 9ft and Maximum height – 14ft.</p> <p>#14, 15, and 16 – use requirements for specific square feet</p> <p>#17 – Minimum Transparency for Each Story and any Half Story – 18%; blank wall limitations apply</p> <p>#18 – Entrance Location and Number – Principal entrance required on primary frontage façade; minimum of one per 100 ft of primary street façade.</p> <p>#19 – Primary Frontage Entryway(s) Configuration – Entry door shall be off a stoop, minimum 6’ wide and 3’ deep;</p> <p>#20 – Primary Frontage Entrance &amp; Ground Story Elevation – At least 80% of entrances and the ground story shall be within 30 inches vertically of adjacent sidewalk elevation OR between 30 inches and 5 feet with visible basement (transparency required)</p> <p>#21 and 22 – Primary Frontage Ground Vertical and Horizontal Façade Divisions – shadowline requirements.</p> <p>#23 – Permitted Roof Types – Parapet, flat, pitched; tower permitted;</p> <p>Notes:</p> <p>#1 – RX and EX to N District Transition. RX and EX district double frontage lots (see definition in 135-7.2) that are deeper than 120 feet and share a primary frontage with an N district shall provide the following:</p> <ol style="list-style-type: none"> <li>a. One or more of the following building types shall front the adjacent N district primary street: <ol style="list-style-type: none"> <li>i. House permitted in the adjacent N district.</li> <li>ii. Row or Flat building as permitted in NX2.</li> <li>iii. General building as permitted but limited to 3 stories a minimum of depth of 30 feet into lot from the N district primary frontage.</li> </ol> </li> <li>b. The RX or EX district lot shall incorporate</li> </ol>	<p>entrance to meet ADA and FHA requirements.</p> <p>Error – should be #13</p> <p>DELETE (C) USES</p> <p>We suggest that transparency should be deleted for these districts.</p> <p>DELETE</p> <p>DELETE - Stoop is not a defined term and is generally defined as a small staircase ending in a platform – all primary entryways need to be accessible to someone with a mobility impairment.</p> <p>DELETE #21 and 22</p>
--	---

<p>an interior alley, lane, or drive to provide access to both building parking and the garage/parking for the House, Row or Flat building.</p> <p>c. The rear of all buildings shall be fully screened by building from both primary streets.</p> <p>#4 – Limited Side Yard Parking. Limited side yard parking means one double- or single-loaded aisle, with the centerline of the aisle perpendicular to the street, is permitted in the interior side yard. Maximum width of double-loaded is 60 feet and 40 feet for single-loaded, measured along the right-of-way. Parking may be angled or head-in. Frontage Buffer required per 135-5.9.</p>	<p>DELETE #4 – We do not believe that this requirement is necessary for the districts outside of the Downtown Districts or Mixed Use Districts.</p>
<p><b>135-1.11 – Flat Building Type</b>  This is for NX2, NX2a, RX1, RX2, DXR, and NX3</p> <p>#2 - Minimum Front Lot Line Coverage – 80%</p> <p>#3 – Front Build-to Zone (BTZ) or Minimum Setback as noted – NX2 and NX2a – Setback within 5 ft of block average, minimum 10 ft; RX1 – 12-25 ft BTZ; RX2; DXR, and NX3 – 15-25 ft BTZ; block averaging applies</p> <p>#4 – Street Side Build-to Zone (BTZ) - NX2 and NX2a – Setback within 5 ft of block average, minimum 10ft; RX1 – 10-15 ft; RX2, DXR, and NX3 – 15-20 ft; block averaging applies.</p> <p>#5 – Minimum interior side Setback – 7 ft; 15 total for both.</p> <p>#6 – Minimum Rear Setback - NX2 and NX2a – 45ft; 15 when located on block ends; RX1 – 30 ft; RX2, DXR, and NX3 – 25 ft.</p> <p>#7 – Minimum and Maximum Building Width - NX2 and NX2a – min 30ft and max 70ft or 120 on block end; RX1 – min 40ft and max 90ft; RX2, DXR, and NX3 – min 60ft and max 120ft.</p> <p>#8 – Minimum Lot Width and Lot Area - NX2 and NX2a – width 70ft and area 8400ft; RX1 – 60ft and area 7200ft; RX2, DXR, and NX3 – width 80ft and area 9600ft.</p> <p>#9 – Max Building Coverage - NX2 and NX2a 45%; RX1 30%; RX2, DXR, and NX3 45%; Max Impervious Area NX2 and NX2a 65%; RX1 50%; RX2, DXR, and NX3 65%; Additional Semi-Pervious Area - NX2, NX2a, and RX1 – 15%; RX2, DXR, and NX3 – 20%.</p> <p>#10 – Surface Parking – Rear Yard only; Garage Entrance Location – Rear or street side façade.</p> <p>#12 – Permitted Driveway Access – Alley, if no alley exists, one driveway off non-primary street permitted; if no non-primary street exist, one</p>	

<p>driveway off primary street permitted.</p> <p>#13 – Minimum Height - NX2, NX2a, and RX1 – 2 story; RX2, DXR, and NX3 – 3 story.</p> <p>#14 – Maximum Overall Height - NX2, NX2a, and RX1 – 3.5 stories, up to 5.5 stories by type 2 design exception; RX2, DXR, and NX3 – 5.5 stories, up to 10 stories by type 2 design exception.</p> <p>#15 – All Full Stories Height – Min 9ft; Maximum NX2, NX2a, and RX1 12ft; RX2, DXR, and NX3 14ft.</p> <p>#16, 17, and 18 – Uses; Occupied space – minimum of 20 ft depth on all full height floors for primary frontage. Parking in basement and rear.</p> <p>#19 – Minimum Transparency per each Full Story and any Visible Basement - NX2 and NX2a – 15% and blank wall limitations apply; RX1, RX2, DXR, and NX3 – 20% and blank wall limitations apply</p> <p>#20 – Principal Entrance Number – Minimum one per 90ft of Building façade; Principal Entrance Front Street Façade.</p> <p>#21 – Required Entrance - NX2, NX2a, and RX1 – Stoop or Porch and between 0 and 4.5 feet above public sidewalk; RX2, DXR, and NX3 – Stoop or Porch and between 2.5 and 6 feet above the public sidewalk;</p> <p>#22 and 23 – Horizontal and Vertical Façade Division – Shadow Lines Required</p> <p>#24 – Specified Permitted Major Building Materials – Brick or Stone</p> <p>#25 – Permitted Roof Types – Parapet, low pitched, pitched roof, flat; tower permitted.</p> <p>Notes:</p> <p>#5 – Open Space Required</p>	<p>Amend #13 – Minimum Height – NX2, NX2a, and RX1 – 1 story</p> <p>DELETE #16, 17 and 18 (C) USES</p> <p>We do not believe that Transparency requirements are necessary for these districts.</p> <p>DELETE - all primary entryways need to be accessible to someone with a mobility impairment</p> <p>Delete #22 and 23</p>
<p><b>135-1.12 Row Building Types</b> This is for NX1, NX2, NX2a, RX1, RX2, NX3, and DX2 Districts</p> <p>#2 – Minimum Front Lot Line Coverage – NX1 70%; NX2, NX2a, RX1, RX2, and NX3 80%; DX2 90%.</p> <p>#3 Front Build-to Zone – NX1 within 2ft of block face avg; NX2 and NX2a within 5ft of block avg; RX1 10 – 15ft; RX2, NX3 15-25, block avg applies; DX2 0-10.</p> <p>#4 Street Side Build-to Zone – NX1 within 5 ft of block face avg; NX2 and NX2a 15ft block avg applies; RX1 10-15ft; RX2 and NX3 15-20ft; and DX2 0-10ft.</p> <p>#5 Minimum Interior Side Setback - NX1, NX2, NX2a, RX1, RX2, and NX3 – 7.5ft; and DX2- 5ft;</p>	<p><b>135-1.12 Row Building Types</b> This Section should be amended to add DXR Districts for Row Building Types. For purposes of providing fee simple title for row buildings, one lot is the area that one row home sits on with the lot line going through the centerline of the common wall between row homes. It does not appear that with this building type you can have for-sale row buildings. This should be corrected to allow fee simple lots.</p>

<p>Min Space Between Buildings - NX1, NX2, and NX2a – 12ft; RX1, RX2, NX3, and DX2 – 10ft;</p> <p>#6 – Minimum Rear Setback - NX1 – 30ft and rear yard required; NX2, NX2a, RX1, RX2, NX3, and DX2 – 20ft; 5 ft on alleys</p> <p>#7 – Minimum Building Width - NX1, NX2, NX2a, RX1, RX2, NX3, and DX2 – 3 units; Maximum Building Width - NX1 – 5 units, 110ft; NX2, NX2a, and RX1 – 6 units and 120ft; RX2 and NX3 – 8 units and 160ft; and DX2 – 12 units;</p> <p>#9 – Maximum Building Coverage - NX1 – 35%, NX2, NX2a, and RX1 – 45%, RX2 and NX3 – 50%, and DX2 – 80%; Maximum Impervious Area - NX1 – 55%, NX2, NX2a, RX1, RX2, and NX3 – 65%; and DX2 – 75%;</p> <p>Additional Semi-Pervious Area – 20%</p> <p>#10 – Surface Parking Locations – Rear Yard Only; Garage Entrance Location – NX1, NX2, NX2a, RX1, RX2, and NX3 – rear or street side facade, and DX2 – rear façade</p> <p>#12 – Permitted Driveway Access – Alley; if no alley exists, one driveway off non-primary street permitted; if no non-primary street exist, one driveway off primary street permitted.</p> <p>#13 – Minimum Overall Height - NX1 – 1.5 stories; NX2, NX2a, and RX1 – 2 story; RX2, NX3, and DX2 – 2.5 story;</p> <p>#14 – Maximum Overall Height – NX1, NX2, and NX2a – 2.5 story; RX1, RX2, NX3 – 3 story; and DX2 – 4 story.</p> <p>#15 – All Full Stories – Minimum Height – 9 ft; Maximum Height - NX1, NX2, NX2a, and RX1 – 12 ft; RX2, NX3, and DX2 – 14ft.</p> <p>#16 – All Stories – NX1 – All permitted Uses; NX2, NX2a, RX1, RX2, NX3, and DX2 – Residential Use.</p> <p>#17 – Required Occupied Space – Min 20 ft depth on all full floors on front façade.</p> <p>#18 – Parking within Principal Building – In rear of the ground story or fully in any basement.</p> <p>#19 – Transparency - NX1, NX2, NX2a, and RX1 – 15%, blank wall limitation apply; RX2, NX3, and DX2 – 20%, blank wall limitation applies.</p> <p>#20 – Principal Entrance Number – Minimum one per unit on street façade or courtyard/open space per Note 2 front street façade.</p> <p>#21 – Required Entrance Configuration/Entrance Elevation - NX1, NX2, NX2a, and RX1 – Stoop or porch between 0 and 4.5 feet above public sidewalk; RX2, NX3, and DX2 – Stoop or porch between 2.5 and 6 feet above public sidewalk;</p>	<p>Note - this needs to allow separate lots underneath one building.</p> <p>#9 – Maximum Building Coverage needs to be increased to accommodate the fee simple lot request. DELETE #9 – Impervious Area and Semi-Pervious Area requirements.</p> <p>Amend #10 to allow Front Parking in N Districts.</p> <p>Amend #13 to require the Minimum overall height of NX1, NX2, NX2a and NX3 – 1 story; RX1, RX2 and DX2 - 1 story;</p> <p>DELETE #17</p> <p>#21 – this will be dependent on the grade of the site and the site configuration.</p>
--	---

<p>#22 – Horizontal Façade Divisions – within 3 feet of the bottom of the ground story or the top of any visible basement</p> <p>#23 – Specific Permitted Major Building Materials – finished wood, brick, stone, fiber cement board</p> <p>#24 – Permitted Roof Types – parapet, pitched roof, flat; One tower permitted per every 20 units</p>	<p>Amend #23 to add vinyl siding</p>
--	--------------------------------------

**CHAPTER 135, ARTICLE 2 – DESIGN REQUIREMENTS:**

Proposed Zoning Ordinance:	Proposed Amendment:
<b>135-2.1 – Generally</b>	
<p><b>135-2.2 Façade and Roof Materials</b></p> <p>A minimum of 80 percent of each street façade, not including windows and door areas, shall be composed of major materials, as specified in this section.</p> <p>A. Simplicity of Surface Materials. A minimum of 60 percent of each façade, not including window and door areas, shall be faced of a single major material, not including architectural metal panel systems.</p> <p>B. Building Type. Some materials are further limited by building type. See Chapter 135, Article 1.</p> <p>C. Side and Rear Facades. Permitted Major Materials shall continue around the corner of a building from the street façade onto the side or rear façade for no less than 20 feet along the side or rear façade. Refer to Limited Use Major Materials for materials permitted on side and rear facades.</p> <p>D. Allowed Major Materials. The following are allowed major materials. See Figure 2.3-A and Figure 2.3-B.</p> <ol style="list-style-type: none"> <li>1. The following major materials are allowed for all buildings except those in N districts: <ol style="list-style-type: none"> <li>a. Stone.</li> <li>b. Full Dimension Brick.</li> <li>c. Cement-based, hard coat stucco.</li> <li>d. Finished Concrete.</li> <li>e. Architectural Metal Panel Systems.</li> <li>f. Glass Curtain Wall Systems.</li> <li>g. Wood and composite wood rainscreen systems.</li> </ol> </li> <li>2. The following major materials are allowed for all buildings in N and NX districts only: <ol style="list-style-type: none"> <li>a. Stone.</li> <li>b. Full Dimensional Brick.</li> <li>c. Cement Based, hard coat stucco.</li> <li>d. Painted, stained, or treated wood,</li> </ol> </li> </ol>	<p><b>135-2.2 Façade and Roof Materials</b></p> <p>A minimum of <del>80</del>75 percent of each street façade, not including windows and door areas, shall be composed of major materials, as specified in this section.</p> <p>A. Simplicity of Surface Materials. A minimum of 60 percent of each façade, not including window and door areas, shall be faced of a single major material, not including architectural metal panel systems.</p> <p>B. Building Type. Some materials are further limited by building type. See Chapter 135, Article 1.</p> <p>C. Side and Rear Facades. Permitted Major Materials shall continue around the corner of a building from the street façade onto the side or rear façade for <del>no less than 20 feet</del> <u>a reasonable distance for the site</u> along the side or rear façade. Refer to Limited Use Major Materials for materials permitted on side and rear facades.</p> <p>D. Allowed Major Materials. The following are allowed major materials. See Figure 2.3-A and Figure 2.3-B.</p> <ol style="list-style-type: none"> <li>1. The following major materials are allowed for all buildings except those in N districts: <ol style="list-style-type: none"> <li>a. Stone <u>and Cast Stone</u>.</li> <li>b. Full Dimension Brick.</li> <li>c. Cement-based, hard coat stucco.</li> <li>d. Finished Concrete.</li> <li>e. Architectural Metal Panel Systems.</li> <li>f. Glass Curtain Wall Systems.</li> <li>g. Wood and composite wood rainscreen systems.</li> <li>h. <u>Fiber Cement Board</u>.</li> </ol> </li> <li>2. The following major materials are allowed for all buildings in N and NX districts only: <ol style="list-style-type: none"> <li>a. Stone.</li> <li>b. Full Dimensional Brick.</li> </ol> </li> </ol>

<p>engineered wood, or composite wood lap siding and wood shingles.</p> <p>e. Fiber Cement Board.</p> <p>f. Vinyl siding with a minimum thickness of .042 inches.</p>	<p>c. Cement Based, hard coat stucco.</p> <p>d. Painted, stained, or treated wood, engineered wood, or composite wood lap siding and wood shingles.</p> <p>e. Fiber Cement Board.</p> <p>f. Vinyl siding with a minimum thickness of .042 inches.</p>
<p><b>135-2.3 Building Façade Elements</b>  135-2.3.2(D) Visibility Through Glass. Reflective glass and glass block are prohibited on street and public way facades. Windows shall meet the transmittance and reflectance factors established in the transparency definition (see 135-7.1.7).</p>	<p>The required transmittance and reflectance factors are excessively restrictive and do not allow businesses to dictate. We believe that this should be significantly reduced to allow reflective glass and glass block.</p>
<p><b>135-2.5 Mechanical Equipment and Appurtenances</b></p>	
<p>135-2.5.1 Intent  Mechanical equipment and appurtenances can have a negative visual impact and detract from the quality of the design of the building. The purpose of the standards of this section is to ensure that the visual impact of mechanical equipment and appurtenances is minimized.</p>	<p>135-2.5.1 Intent  <del>Mechanical equipment and appurtenances can have a negative visual impact and detract from the quality of the design of the building.</del> The purpose of the standards of this section is to ensure that the visual impact of mechanical equipment and appurtenances is minimized.  [NOTE – Mechanical Equipment should be defined]</p>
<p>135-2.5.2 Mechanical Equipment In Building  Mechanical equipment shall be located within the building, unless the applicant demonstrates the equipment is necessary for the function of the building and locating the equipment within the building would conflict with the equipment’s function.</p>	<p>135-2.5.2 Mechanical Equipment <u>Location In Building</u>  Mechanical equipment shall be located within the building <u>or outside of the site line view from the primary street to the extent practicable.</u> <del>unless</del> The applicant <u>may demonstrate that the mechanical equipment located in the site line view of the primary street is reasonably necessary</u> for the function of the building <del>and locating the equipment within the building would conflict with the equipment’s function.</del></p>
<p>135-2.5.3 Rooftop Mechanical Equipment  Any rooftop mechanical equipment, such as but not limited to vents, ventilators, and skylights, and excluding solar energy and wind energy conversion systems, shall be located consistent with one of the following methods:</p> <p>A. Incorporate equipment into the roof design consistent with the applicable standards of 135-1.17.</p> <p>B. Set the equipment back a minimum of 20 feet from any public way façade.</p> <p>C. To the extent practicable, all rooftop mechanical shall be painted to blend with the structural roof and limit its visibility.</p>	<p>135-2.5.3 Rooftop Mechanical Equipment  Any rooftop mechanical equipment, such as but not limited to vents, ventilators, and skylights, and excluding solar energy and wind energy conversion systems, shall be located consistent with one of the following methods <u>unless otherwise approved as a Type 1 Design Exception:</u></p> <p>A. <u>To the extent practicable, incorporate equipment into the roof design consistent with the applicable standards of 135-1.17.</u></p> <p>B. Set the equipment back <u>a minimum of 20 feet out of the site line</u> from any <del>public way</del> <u>primary street</u> façade.</p> <p>C. To the extent practicable, all rooftop</p>

	mechanical shall be painted to blend with the structural roof and limit its visibility.
<p>135-2.5.4 Mechanical Equipment and Utility Appurtenances on Facades</p> <p>Mechanical equipment and utility appurtenances shall not be located on a façade unless the applicant demonstrates that locating the equipment in a different location would conflict with the equipment’s function. Any equipment or appurtenance approved on a façade, such as but not limited to dryer vents, gas meters, and air conditioners, shall be located consistent with the following standards:</p> <p>A. Façade. The mechanical equipment may be located on a primary façade only if the following requirements are met:</p> <ol style="list-style-type: none"> <li>1. The equipment is located on a surface perpendicular to any right-of-way;</li> <li>2. The equipment extends from the façade surface no more than 3 inches; and</li> <li>3. The equipment is screened from the sidewalk.</li> </ol> <p>B. Alignment. Multiple pieces of mechanical equipment shall be organized on the façade in a regular pattern and aligned. Compliance with this standard must be illustrated on the drawing elevations submitted as part of the application.</p> <p>C. Material Coordination. To the extent practicable, façade-mounted mechanical appurtenances shall be located on a material that limits their visibility. For example, dark colored vents will be more visible on light colored stucco than a textured, darker surface such as brick.</p>	<p>135-2.5.4 Mechanical Equipment and Utility Appurtenances on Facades</p> <p>Mechanical equipment and utility appurtenances shall not be located on a façade unless the applicant demonstrates that locating the equipment in a different location would conflict with the equipment’s function <u>or would make the equipment less efficient</u>. Any equipment or appurtenance approved on a façade, such as but not limited to dryer vents, gas meters, and air conditioners, shall be located consistent with the following standards:</p> <p><del>A.</del> Façade. The mechanical equipment may be located on a primary façade <u>however the equipment shall be reasonably limited from view of the primary street. For example the equipment and appurtenances shall be painted to blend in to the façade. only if the following requirements are met:</u></p> <ol style="list-style-type: none"> <li><del>1. The equipment is located on a surface perpendicular to any right-of-way;</del></li> <li><del>2. The equipment extends from the façade surface no more than 3 inches; and</del></li> <li><del>3. The equipment is screened from the sidewalk.</del></li> </ol> <p>B. Alignment. Multiple pieces of mechanical equipment shall be organized on the façade in a regular pattern and aligned. <del>Compliance with this standard must be illustrated on the drawing elevations submitted as part of the application.</del></p> <p>C. Material Coordination. To the extent practicable, façade-mounted mechanical appurtenances shall be located on a material that limits their visibility. For example, dark colored vents will be more visible on light colored stucco than a textured, darker surface such as brick.</p>
<p>135-2.5.5 Mechanical Equipment and Utility</p> <p>Mechanical equipment located on the ground, decks, or horizontal surfaces other than the roof, such as but not limited to electrical equipment and air conditioners, shall be located consistent with the following standards:</p> <p>A. Screening. See 135-5.12.5 for wall and landscape screening of mechanical equipment and utility appurtenances.</p> <p>B. No encroachment. Mechanical equipment shall not extend into any city right-of-way or easement.</p> <p>C. Yard Location.</p>	<p>135-2.5.5 Mechanical Equipment and Utility</p> <p>Mechanical equipment located on the ground, decks, or horizontal surfaces other than the roof, such as but not limited to electrical equipment and air conditioners, shall be located consistent with the following standards:</p> <p>A. Screening. See 135-5.12.5 for wall and landscape screening of mechanical equipment and utility appurtenances.</p> <p>B. No encroachment. Mechanical equipment shall not extend into any city right-of-way or easement, <u>unless otherwise approved by the city.</u></p>

<ol style="list-style-type: none"> <li>1. No mechanical equipment shall be located in the front yard.</li> <li>2. Mechanical equipment may be located in a side yard provided the side yard does not contain or abut a public way or open space.</li> <li>3. All equipment shall be screened from view from any public way with landscaping, fencing, or walls consistent with the building design, colors and materials.</li> <li>4. The community development director may approve appurtenances located on primary street only if the following conditions are met: <ol style="list-style-type: none"> <li>a. The applicant demonstrates that the equipment cannot be located in the rear yard, non-primary street yard, or in a side yard.</li> <li>b. No utility cabinets, boxes, or other appurtenances are within 300 feet along the same side of the street as the proposed utility appurtenance.</li> <li>c. The appurtenance is fully screened in a manner that is consistent with the building design, colors, and materials and of a height that is the minimum to adequately screen the appurtenance and that does not prevent the façade from fulfilling any transparency requirements.</li> <li>d. The appurtenance is located a minimum of 35 feet from a street intersection.</li> <li>e. The appurtenance does not impact the sight vision clearance at intersections per 114.14.</li> </ol> </li> </ol>	<p>D. Yard Location.</p> <ol style="list-style-type: none"> <li>1. No mechanical equipment shall be located in the front yard.</li> <li>2. Mechanical equipment may be located in a side yard provided the side yard does not contain or abut a public way or open space.</li> <li>3. All equipment shall be screened from view from any public way with landscaping, fencing, or walls consistent with the building design, colors and materials.</li> <li>4. The community development director may approve appurtenances located on primary street only if <u>one or more of</u> the following conditions are met: <ol style="list-style-type: none"> <li>a. The applicant demonstrates that the equipment cannot be located in the rear yard, non-primary street yard, or in a side yard.</li> <li>b. No utility cabinets, boxes, or other appurtenances are within 300 feet along the same side of the street as the proposed utility appurtenance.</li> <li>c. The appurtenance is fully screened in a manner that is consistent with the building design, colors, and materials and of a height that is the minimum to adequately screen the appurtenance and that does not prevent the façade from fulfilling any transparency requirements.</li> <li>d. The appurtenance is located a minimum of 35 feet from a street intersection.</li> <li>e. The appurtenance does not impact the sight vision clearance at intersections per 114.14.</li> </ol> </li> </ol>
--	---

**CHAPTER 135, ARTICLE 3 – LARGE-SCALE DEVELOPMENT:**

Proposed Amendment:

DELETE all language set forth in Chapter 135, Article 3 and replace with PUD language in current zoning code at Chapter 134, Sections 691 – 708.

**CHAPTER 135, ARTICLE 4 – PARKING:**

This Chapter provides excessively restrictive requirements with regard to Parking that cause additional costs with little or no benefits to the citizens of Des Moines. Therefore, we believe this section should be further reviewed and analyzed to determine which Parking Requirements are necessary and which parking requirements should be removed.

**CHAPTER 135, ARTICLE 5 – LANDSCAPING AND STREETScape:**

This Chapter provides excessively restrictive requirements with regard to Landscaping and Streetscape that cause additional costs with little or no benefits to the citizens of Des Moines. For example, tree

trimming, fertilization, and other similar work shall be performed by or under the management of an ISA certified arborist for all residential and commercial lots. Therefore, we believe this section should be further reviewed and analyzed to determine which Landscape and Streetscape Requirements are necessary and which Landscape and Streetscape requirements should be removed. In addition, we believe that the following provision should be deleted in its entirety 135-5.2.3(F) Compost and Organic Matter – “Compost and organic matter shall be utilized within the soil mix to reduce the need for fertilizers and increase water retention.”

**CHAPTER 135, ARTICLE 6 – REVIEW AND APPROVAL PROCEDURES:**

Proposed Zoning Ordinance:	Proposed Amendment:
<b>135-6.1 Site Plans</b>	DELETE – this section in effect changes Chapter 82 and the site plan review set forth in Chapter 82 should remain.

#1516  
1416



CITY OF DES MOINES  
COMMUNITY DEVELOPMENT  
602 ROBERT D RAY DRIVE  
DES MOINES, IA 50309-1987

September 6, 2017

Mr. Bob Blanchard  
City of Des Moines  
400 Robert D. Ray Drive  
Des Moines, IA 50309

Re: City of Des Moines – Proposed Zoning Ordinance – Chapter 134 & 135 of City of Des Moines Municipal Code

Mr. Blanchard:

I am writing to you today in your capacity as the contact person for the City of Des Moines' proposed zoning ordinance implementing PlanDSM for the City of Des Moines. It is our understanding that the Public Review Draft comment period expires on September 5, 2017, and for that reason we are reaching out to you with our thoughts and comments regarding the proposed zoning ordinance as currently drafted and provided to the public.

The changes to the zoning code can, if adopted, have a significant and material impact on both existing property uses as well as the future development of real property located within the City of Des Moines. The proposed zoning ordinance significantly changes districts and creates new design requirements and new use requirements than what currently exist under the existing City Code. The material impacts these changes will have on real property currently zoned to allow for specific uses have not been explained to many property owners who would be shocked to find that their previously allowed uses are now non-conforming uses under the proposed code.

The buildings on these properties and the current uses of these properties will be able to fall under the non-conforming uses section of the proposed code, however, because the buildings cannot be rebuilt to its current state, additional insurance will be required for every property that is non-conforming to the proposed zoning ordinance because of the additional costs to build to the standards of the proposed zoning ordinance. In addition, there are concerns as to whether property owners will be able to obtain financings on such properties, as it is normal business practice for lenders to obtain zoning letters from the City. We do not know at this time if the non-conforming use insurance will be sufficient for the lenders to make loans for properties in the City of Des Moines impacted by these changes under the proposed zoning ordinance. In addition, no business can expand in its current location under the proposed zoning code under its non-conforming use, which may drive expanding businesses out of the City of Des Moines. Finally, if the building on a non-conforming use property is damaged or destroyed to the extent of Fifty Percent (50%) or more of its replacement, the non-conforming use and design cannot be re-established. Therefore, the businesses in these districts would not be able to rebuild their businesses and they would be forced to move or close. All of these concerns need further review

and it would be beneficial for the business owners to receive more information and have more time to review.

As the proposed zoning ordinance impacts properties owned or managed by Knapp Properties we have many concerns, which include, but are not limited to, the following:

- 1) 611 Fifth Avenue is denoted as the district to be known as DX2. As the owner goes to redevelop the building, we read the proposed zoning ordinance to require the owner to upgrade the exterior to DX2 standards. This will create several issues and impediments to redevelopment, the most apparent one being the requirement that Seventy Percent (70%) of the ground floor be glass enclosed.
- 2) The southeast corner of County Line Road and SW 9<sup>th</sup> Street is shown as MX1. The MX1 district under the proposed zoning ordinance allows business and professional office on upper floor only (so it would prohibit a stand-alone doctor or dental office) and does not allow fueling stations (even though there is an existing, relatively new fuel station that would become a non-conforming use.). To limit the uses in this way on this corner of the City of Des Moines does not seem to be a well thought out result in this change of uses.
- 3) Drive-throughs are not permitted in DX uses (420 Court Avenue has one), and not permitted in MX1 (so the property mentioned in comment 2 above would not be allowed one). These limitations on drive-throughs would negatively impact the value of these properties as many retailers entering the market require these types of drive-throughs, especially in MX1 districts.
- 4) The project at 420 Court Avenue, Des Moines would become a non-conforming use which will seriously impact the owners ability to refinance the project due to the concerns raised previously in this letter related to the expectations of lenders when financing non-conforming projects of this type.
- 5) The restrictions on housing are extremely difficult to understand. Row buildings have to have the garage facing the rear. Is this just along public streets? It is unclear. Row buildings have to be 2.5 story max which eliminates a popular housing model. House types C and D are allowed minimum use types of 1.5 stories to eliminate ranch homes, the single most popular style in today's market. Under building guidelines, windows have to be vertically oriented (135-2-5). This doesn't make sense with today's prairie/temporary architecture. The requirement for garage door (135-2-8) recess is also overly restrictive given the housing in today's market. Taken in total many of the restrictions in housing development seem to move away from many of today's more popular forms of housing in the marketplace, which will have a material impact on any attempts to bring single-family homes to market in the City of Des Moines.
- 6) In Chapter 135-2-14, mechanical equipment in any building seems to eliminate any roof top equipment, even if appropriately screened. If that is true it will materially harm many forms of commercial development. Why not allow rooftop equipment if properly screened like all other areas of the metro.
- 7) In Chapter 135-3-6, cul-de sacs seem to be prohibited, unless absolutely necessary. This restriction is not in keeping with today's market. Overall, the large scale development

guidelines (connectivity, etc) don't seem to take into account topography and will make it very difficult to develop many locations within the City of Des Moines for single family housing.

In total, we are concerned with many of the requirements of the proposed zoning ordinance implementing PlanDSM. We look forward to the opportunity to discuss these concerns with City of Des Moines staff as we move forward so that the final proposed zoning ordinance is one that we here at Knapp Properties can support.

Best regards,



Stuart Ruddy

General Counsel & Secretary, Knapp Properties, Inc.

cc: Roger Brown, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Glenna Frank, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Scott Sanders, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Michael Ludwig, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Gerry Neugent  
Bill Knapp II  
Chris Costa  
Aimee Staudt