

Item 23-0936: Proposed draft text amendments to Chapter 23 Zoning Ordinance of the Municipal Code

City Plan Commission

Wed, Aug 23, 2023, 3:30PM

Mayor Jake Woodford 03:47

That's it for action items. We'll move on to information items, and we have one. This is item 23-0936 proposed draft text amendments to chapter 23 zoning ordinance of the municipal code, and who's going to tell us about this one? All of you? All right. Okay, who wants to start? How about that? All right, Don, and your mic? Okay. Don Harp, go ahead.

Principal Planner Don Harp 04:13

Thank you, Mayor. At the last meeting, staff had placed the text amendments on the agenda for the planning commission just for an information item because we plan on taking these forward as a public hearing. But due to time constraints weren't able to really do a thorough presentation to go over what we had provided in the agenda. So what—how we have this setup is we broke out our amendments into various groups. We have four groups and the one—the first group that I'll speak about is group A text amendments, and that's related to wireless telecommunication towers.

Principal Planner Don Harp 04:46

What we're looking to do with this is to repeal our current regulations and update those compliant with the state statutes. The state statutes prescribed specific regulations that relate to cell towers under the current statute. So we're looking to remove our current regulations and then place those into our special use section that really relates to permitted uses or special uses, more like performance standards, so that we have consistent regulation that mirrors the state statute. And that relates to how they're processed based on criteria and the statute.

Principal Planner Don Harp 05:23

We're proposing to remove the telecommunication towers from special use permits and rolling those into a permitted use in all zoning districts, because the city has very—has limited discretion on not approving or denying a cell tower based on location, because the statute identifies that they're allowed in all zoning districts. So that's the reason why we're proposing to remove those from a special use permit public hearing to administrative review. And we would review those under our site plan administrative approval process for new cell towers, in addition to modifications to towers, as well as new antenna installation.

Principal Planner Don Harp 06:10

And there's specific time criteria in which staff would need to react to a permit that's submitted to the city within a 10 day time period to verify completeness. So there's some time constraints that we're dealing with as well with processing, permitting cell tower, proposed new towers, and also the installation of antennas.

Principal Planner Don Harp 06:32

Another area that we're looking to amend is the review fee. Currently, we have it structured as under a special use permit for \$2,700 that. We're looking to update that to a \$3,000 application fee for site plan approval. That would be consistent with the state statutes what the communities in Wisconsin can charge for a cell tower permit.

Principal Planner Don Harp 06:55

The other part of the amendments are just to update landscaping, fencing requirements related to our electronic tower standards, as well as cell towers. We have two different types of towers in the city. The electronic towers deal with primarily, like WAPL. When you're looking at radio towers, there are some prescribed standards there. So we're trying to mirror the cell towers with the electronic towers to treat them equally so we're not being inconsistent in the application of the code. So we've updated that section to mirror what we're proposing for cell towers as well.

Principal Planner Don Harp 07:32

We had discussed this internally with our staff and also with the city attorney's office, and they provided us feedback. And just to verify that we're complying with the statute with the proposal that we're bringing forward, the plan commission, and we have confirmation from the attorney's office that this is in alignment with the state statutes. So therefore, we're just recommending approval to have Plan Commission, after we're done with our presentation, to initiate the public hearing process, and we would just bring the amendments back at a subsequent Planning Commission meeting. I think we're shooting for September 13.

Mayor Jake Woodford 08:07

Right. Right. And this this one is has long been a challenge for commissions and councils who face special use permit approvals but then are informed of the limitations in terms of their decision making. So you know, just—I personally have heard frustrations from members of our Council about the fact that they're being asked to review and approve an item or approve and or deny an item when they don't actually have the statutory authority to do that. And so this, hopefully, will be taken as a positive change. We're trying to get aligned with state statute and put our Council in a in a better position in terms of you know, the items that come before them. And so, are there other items that you want to talk more about? Okay. Number two, go ahead.

Principal Planner Jessica Titel 09:01

Yeah, we have basically four groups of text amendments here that we'll just kind of summarize, and that's how they're summarized in your packet as well. The second section is for dumpster enclosures and trash containers. So super exciting stuff. But our existing trash enclosure and dumpster regulations are pretty antiquated, and they were written when the city picked up dumpsters and trash on commercial properties. So the regulations were written very specific to the size of the enclosure, the amount of clearance around the dumpster. So since the city no longer collects trash on private—or on commercial properties, we decided to update that so it's more relevant to today's current development patterns.

Principal Planner Jessica Titel 09:48

Sometimes the location of these service structures that every business needs can become difficult. So we updated the location standards to reduce the number of variances that we were seeing going to our board of zoning appeals. We were seeing the same ones over and over, so we've updated that. And we also offered a little bit more flexibility that better represent the development standards while also still requiring the screening and to maintain the aesthetics. So that is the trash enclosure section.

Principal Planner Jessica Titel 10:18

Another section that we touched during this update is the drive-through facilities. That's another one that was written a long time ago, mainly pertain to a bank drive thru. Now we see drive-throughs for fast food restaurants, double drive thrus, pharmacies, lots of different types of drive-through users. So we updated that.

Principal Planner Jessica Titel 10:37

We also update it to ensure consistent application. The language in there was a little wishy washy, and so based on who was reading it, they may interpret it something—some differently. So we've updated those, added some definitions, also, again, offer some more flexibility. When looking at aerial photos of drive through facilities around the city, they're kind of all over the board and maneuvering lanes and that pickup windows were all over. So we tried to look at that and make our zoning code reflect what we're actually seeing being constructed. Also, the amendments will reduce the amount of variances that are going to the board of zoning appeals. We were also seeing a number of variances each year for these drive-through facilities.

Principal Planner Jessica Titel 11:18

We separated out the different type of uses and have stacking spaces based on that—drive through pickups, pharmacies versus a fast-food restaurant, versus a carwash have different stacking expectations for those uses.

Principal Planner Jessica Titel 11:32

Probably the biggest change that we made is that we removed the drive-through facilities as an allowed use in our central business district. We are—this central business district's intended to be a pedestrian oriented district and getting away from car centric design. So the existing drive throughs in CBD—there aren't too many of them—can remain, but new use—new drive throughs will not be permitted in our central business district. But we did—with the flexibility that we have, the drive throughs are still allowed in our C-2 general commercial district. So the flexible—it allows more flexibility in those districts while eliminating them in the central business district. So that concludes my summary of amendments.

Mayor Jake Woodford 12:17

All right. Thank you very much. Appreciate—Oh, go ahead. Three, go ahead.

Principal Planner Lindsey Smith 12:24

All right, so Group D, the final, was about the off-street parking requirements. So this section, 23 172 M, talks about minimum off-street parking standards. So this is, again, minimum. We don't regulate maximum amount of parking. So with that, we have three sections that we're proposing to change. It will impact elementary school, middle school, high school, those are kind of—I group those together—and then personal storage, and then veterinarian clinics.

Principal Planner Lindsey Smith 12:56

So currently our school—elementary, middle school and high school—we have to account for our gymnasiums, our classrooms, and our auditoriums all being occupied at the same time. And when reviewing some of the recent site plans coming in with the middle school projects, we found that several of our middle schools do not comply with our current standards today. And for them to comply with these standards would be excessive amount of parking being added to these sites. So with that, we did some research, looking at some surrounding communities, and seeing what others are requiring. And typically, your gymnasium and your auditoriums are occupied the same time you're in school. So with that, we took the approach of having the parking standard only looking at the number of employees on site.

Principal Planner Lindsey Smith 13:49

And then for the high schools, we would require additional parking for your juniors and seniors because you're going to having, would be having them—and some sophomores—driving to school. So high school has a little bit of additional standards for parking compared to the elementary and middle school.

Principal Planner Lindsey Smith 14:08

Then moving down to personal storage. This is another one that we kind of experience when going through a site plan. We required one space for every rental—one space for every five rental storage units, and we felt that that was pretty excessive. Again, this is a minimum parking standard. And so with that, with reviewing, we decided to remove that parking standard. If the storage unit would have any office space, they would be required to have some parking to account for that office space, but not just for the storage units.

Principal Planner Lindsey Smith 14:40

And then the final section is for a veterinarian clinic. We currently require a stall for each exam room and based on the square footage of the facility. So we had a recent situation that it was a medical facility that's actually changing to a veterinarian clinic and the medical facility had the appropriate amount but not the veterinarian clinic due to the different standards. So we're proposing to change the standard to the veterinarian clinic to be the same as a medical facility, as we would call it, I think—"personal service use" is what we would call it in our parking standards. So those are the proposed changes for parking.

Mayor Jake Woodford 15:23

Thank you to all right. Deputy Director Kress, go ahead.

Deputy Director David Kress (Community and Economic Development) 15:30

Thank you, Mayor. So maybe just to kind of summarize and clarify process here, since we don't take these bundles of text amendments forward all that often. Usually once annually or twice, occasionally, we've done as well. But it's essentially a two-step process here at Plan Commission. It's on today's agenda as an information item to allow for freeform discussion, dialogue, questions, etc. And then staff is here to solicit feedback from Planning Commission, make revisions as necessary, and then as Dan touched on, bring it back for public hearing and an action item perhaps as early as the September 13 meeting. But really just here to share what we've been working on, not just within our department, but it's been a collaborative effort among various city departments, including the attorney's office. So big thank you to deputy city attorney Abshire and the team over there. So this reflects, you know, weeks and months of hard collaborative work across various departments. But at this point, we're here to hear from you all and answer questions as best we can.

Mayor Jake Woodford 16:24

All right. Thank you. All right. So we'll open up for discussion from the Commission. All right. Alder, Fenton, go ahead.

Aldersperson Denise Fenton (District 6) 16:34

Thank you. To anyone who cares to answer, the parking—I'm seeing in the school requirements, the stacking spaces for drop off. The most frequent complaint I get from people in my district is about pickup and drop off at the schools in the area. Because people block driveways, they block all kinds of things. So do we have any concerns about—I understand that we're making the language sort of match what is now. Do we have any concerns that lowering the parking requirements, especially at some of the, like, you know, lower grade schools is going to affect the traffic flow on these—I don't want to say contentious, but—these times that seemed to cause some concern.

Mayor Jake Woodford 17:36

Yeah. Who wants?

Principal Planner Lindsey Smith 17:40

If you want to Dave. I...

Deputy Director David Kress (Community and Economic Development) 17:43

Yeah, I think that that's a fair question. I mean, we recognize that for certain peak times, for morning drop off and afternoon pickup, schools can be busy areas, particularly neighborhood schools. We'd like to think that there's still a continued amount of walking and bicycling to school. And we try our best to encourage that. The city's had an ongoing involvement with the Safe Routes to School program to better facilitate walking and biking to school, but we do recognize that there's a parent pickup/drop-off component as well. Thankfully, I think many of the neighborhood schools do have adequate on street parking for the limited usage. So forcing the, in this case, school district or even private school, in the example of some parochial schools, to overbuild parking on their site for these limited times, in our view, from a staff standpoint, felt like overkill.

Mayor Jake Woodford 18:39

And I would just add to that. You know, I join staff in that position that we need to be careful about, requiring, certainly hardscape development as we think about the overall needs of the city and the burdens that hardscape place on our infrastructure. Sometimes that gets missed, but when we when we create more non permeable surface in the city, it then triggers a cascading effect, if you will, and no pun intended of stormwater management, which, which then requires additional changes to land use and potentially even more burden on our stormwater management system.

Mayor Jake Woodford 19:22

So I joined staff in that trying to take a careful and considerate approach about the requirements so that we're not unduly burdening schools but also that we're not we're not then creating more demand and more burden on other city systems. Did you want to add something, Lindsay? Three.

Principal Planner Lindsey Smith 19:43

Just to note, when I've been reviewing these couple site plans coming in for the middle school too, I think that's been a focus of theirs is really making sure they have that adequate space. I think some of them, just looking at existing conditions, don't clearly identify where that load drop off and loading zone is and so just by reviewing the three that I have on my desk, you know, they have that designated loading zone, and they still have that through traffic that can get through. So, today, they may not have that clearly identified and marked. And so hopefully with these improvements that will help with some of that traffic flow as well.

Aldersperson Denise Fenton (District 6) 20:16

Yeah, that's great. That's kind of what I was hoping that we'd get to. Thank you.

Mayor Jake Woodford 20:24

Discussion from the Commission? Okay.

Adrienne Palm (Commissioner) 20:28

I just had a question about the group A section. You had mentioned the kind of the—again, apologies for just my ignorance about the cell tower versus you we're talking about like radio towers and things like that. Are those—like are broadcasting towers within that same category? Within like, as it relates to radio, television, that sort of thing, are those regulated in the same way? Is that only relevant as it relates to the landscaping line item? Or is that relevant as well, to application review, and I guess I was just curious for more information about who all that impacts?

Principal Planner Don Harp 21:11

Sure. The regulations that relate to cell towers are very specific to cell towers, and broadcast towers have their own regulations. So we're not defining them the same. They're two independent uses. But the landscaping, we're just trying to mirror what's in our current code with radio towers compared to cell towers. But the use in terms of a location, those aren't being amended with this proposal. So as we have maybe a few broadcast towers in the city, those will remain as listed as primarily, in some cases, they're a special use permit and then some other cases based on height, they're permitted uses based on a permit. So I think there might be a 60-foot limit. Anything higher than 60 requires a special use permit. In some cases, they can be considered a permitted use, and then just administratively reviewed and approved in that manner. And they're regulated differently from the federal government rules and regulations based on broadcasting versus cell towers. So we're just treating them independent from one another.

Adrienne Palm (Commissioner) 22:20

Got it. Okay, thank you for the clarification.

Sabrina Robins (Commissioner) 22:29

And this is just for my education. It's related to the drive thru. How deep or wide is the central business district defined for the city of Appleton?

Deputy Director David Kress (Community and Economic Development) 22:47

So the—just generally speaking, we're looking on the far west end about Badger Avenue, on the east end roughly Drew Street. In terms of a north rough perimeter, we're looking up to probably Packard Street and on the south end basically, the bluff or edge of downtown before heading down towards the river. I mean, those are rough perimeter boundaries for the CBD zoning. It's a little bit more jagged than that, but those are the rough parameters.

Sabrina Robins (Commissioner) 23:23

Thank you, because I was just thinking College Avenue from Memorial to about Lawrence. So it is deeper. I know there's this coffee place that I like that's behind there. I was like, "Oh, no, they're not gonna get rid of that." But it's grandfathered in, right? Just there won't be a new one. All right, I just need to clarify.

Mayor Jake Woodford 23:47

Okay, yeah, go ahead.

Adrienne Palm (Commissioner) 23:49

Just to build on that question, though, if that business were to—if that property were to sell to a new business, would they receive that same grandfather with that purchase?

Deputy Director David Kress (Community and Economic Development) 24:02

Yes.

Adrienne Palm (Commissioner) 24:03

Okay.

Deputy Director David Kress (Community and Economic Development) 24:04

The continuation of the non-conforming use can be transferred from one owner to the next.

Adrienne Palm (Commissioner) 24:08

Great, thank you.

Mayor Jake Woodford 24:11

I think just on this one, it was touched on in the presentation, but I think just to reinforce when we talk about highest and best use of land, especially in a high-density part of our community, being mindful of the enormous amount of space drive throughs do require. It's a lot—again, a lot of additional hardscape, which is less activated than other types of land use. So there's just less development, less increment happening on those on those properties. And so, in addition to supporting our goals around being a more walkable community, it's also a strategic decision on the part of the city to try and maximize our use of that highest density and most productive space within the community from a tax base perspective. So there are multiple benefits to this.

Mayor Jake Woodford 25:04

Of course, there are drawbacks and challenges in terms of businesses that want to create drive thrus. But there are many parts of the city where that will remain an option, and there's flexibility to do that. As Jess pointed out there, there's the C-2 category that that allows for that. And so there are there are places in parts of the city where that will continue to be a part of the design.

Sabrina Robins (Commissioner) 25:28

Yeah, and I'm very supportive of a walking city and downtown. It also supports healthy living and an attraction. So I think it's a great idea. I just didn't know how—what the boundaries were for a central business district for Appleton.

Mayor Jake Woodford 25:47

Sure. Discussion from the Commission? I'd just like to take the opportunity before we get then on to future conversations where we're taking these up, but just want to thank staff for putting together these recommendations. I think it's a point of pride for us as a city that we're paying attention to what's happening in our community. And when our staff is noticing that variances are making their way through approval processes, and they're being approved, that's telling us something about what's happening in the community, the demands of the community, the needs of the community. And rather than continuing to put property owners and applicants through an onerous process, we try to streamline where we can but also to minimize the amount of unnecessary bureaucratic time we have to spend on things that we really don't need to spend so much time on.

Mayor Jake Woodford 26:48

So just grateful to staff for paying attention to what's going on in the community and helping us stay on top of these issues and amend our amend our codes so that they reflect what's actually happening in the community, the needs of the community today. So thank you to staff for making these recommendations and look forward to taking them up at a future meeting.

Mayor Jake Woodford 26:59

I would say, you know, my sense of the body is we're ready to start moving on reviewing these so we can we can do that at the earliest convenience of staff and so long is we're compliant with noticing requirements as soon as we can get going on taking them up, I think the commissioner is ready to get going on it. So thank you.