City Council Communication

Department: Community Development Cases #ZT-20-005 Applicant: Council Bluffs Community Development Department	Ordinance No.	1st Consideration: 11/23/2020 2nd Consideration: 12/14/2020 3rd Consideration: Request to be waived Planning Commission: 11/10/2020

Subject/Title

Public hearing on the request of the Council Bluffs Community Development Department to amend Section 15.26.030(b), *Abandonment of Nonconforming Use*, of the Municipal Code (Zoning Ordinance) to allow a nonconforming use to cease for a continuous period of twelve (12) months before the subsequent use shall be required to conform to the use regulations of Title 15: Zoning.

Background

The Community Development Department is requesting to amend Section 15.26.030(b), *Abandonment of Nonconforming Use*, of the Municipal Code (Zoning Ordinance) to allow a nonconforming use to cease operating for a continuous period of twelve (12) months before the subsequent use shall be required to conform to the use regulations of Title 15: Zoning. The proposed text amendment is included with this report as Attachment 'A'.

The request to amend the above mentioned section of code arose from a discussion regarding the rezoning, Case #ZC-20-010, considered by City Council on September 28, 2020. Case #ZC-20-010 involved rezoning properties from I-1/Light Industrial to C-2/Commercial District in the West Broadway Corridor, which subsequently caused a number of businesses in the West Broadway Corridor to become legally nonconforming. At this meeting, it was discussed that increasing the grace period for nonconforming uses from six (6) to twelve (12) months would be a reasonable adjustment as it would allow business owners sufficient time to sell their property and/or business before having to come into compliance with current allowed uses.

Additionally, in response to direction given by City Council to consider extending the existing six (6) month grace period for nonconforming uses, Community Development Department staff conducted research on the top ten largest cities in Iowa, which include: Des Moines, Cedar Rapids, Davenport, Sioux City, Iowa City, Waterloo, Council Bluffs, Ames, West Des Moines, and Dubuque regarding the grace period given to nonconforming uses, see Attachment 'B'. Seven of the top ten largest cities in Iowa allow a nonconforming use a twelve (12) month grace period before the subsequent use would be required to conform to current use standards. Ames and Des Moines have no grace period, requiring that nonconforming uses cease immediately upon vacancy. Council Bluffs was the only city among the top ten to have a six (6) month grace period.

The proposed text amendment is an effort to remain consistent among larger Iowa cities and provide business owners a sufficient and reasonable opportunity to legally continue to operate nonconforming uses where applicable.

Comments

All City departments and local utility providers received a copy of the proposed text amendment. The following comments were received regarding proposed amendment to Section 15.26.030(b), Abandonment of Nonconforming Uses:

- The Council Bluffs Public Works Department stated that they have no comments.
- The Council Bluffs Fire Department stated that they have no comments.
- Council Bluffs Water Works stated that they have no comments.

Recommendation

The Community Development Department recommends approval to amend Section 15.26.030(b), *Abandonment of Nonconforming Use*, of the Municipal Code (Zoning Ordinance) to allow a nonconforming use to cease for a continuous period of twelve (12) months before the subsequent use shall be required to conform to the use regulations of Title 15: Zoning.

Public Hearing

Staff speaker for the request:
1. Haley P. Weber, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommended approval to amend Section 15.26.030(b), *Abandonment of Nonconforming Use*, of the Municipal Code (Zoning) to allow a nonconforming use to cease for a continuous period of twelve (12) months before the subsequent use shall be required to conform to the use regulations of Title 15: Zoning.

VOTE: AYE - Bass, Danielsen, Halm, Haner, Holm, Rater, Rew, Scott, Stroebele, and VanHouten
NAY - None ABSTAIN - None ABSENT - Hutcheson VACANT - None Motion: Carried

Attachment(s)

Attachment A: Proposed Section 15.26.030(b), *Abandonment of Nonconforming Uses*
Attachment B: Top Ten Iowa Cities – Nonconforming Uses

Prepared by: Haley P. Weber, Planner