



Date November 18, 2013

WHEREAS, on November 4, 2013, by Roll Call No. 13-1721, the City Council duly resolved that a public hearing to be held on November 18, 2013, at 5:00 p.m., in the Council Chambers at City Hall, 400 Robert D. Ray Drive in Des Moines, to consider a proposal from Beaverdale Partners, LLC (owner) represented by Jeffrey Ewing (officer) , to amend the approved Rice Development Partners PUD Planned Unit Development District Conceptual Plan for property located in the vicinity of 3001 Beaver Avenue, to revise the name to Beaverdale Cooperative Housing PUD and to allow development of a three-story 54-unit multiple-family dwelling for senior living; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on November 7, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the approved PUD Conceptual Plan; and

WHEREAS, at a public hearing on October 17, 2013, the Plan and Zoning Commission recommended by a vote of 7-5 that the proposed amendment to the approved PUD Conceptual Plan be approved, subject to the following conditions and subject to the conceptual plan being first amended as set forth in the attached letter from the Planning Administrator:

1. A note shall be added to the PUD Conceptual Plan to state that installation of all public utilities and sewers to serve the subject property shall meet City design standards and be installed at the developer's expense.
2. The PUD Conceptual Plan needs to contain additional details regarding the stormwater main connecting to the existing sewer within 40th Place right-of-way, including its size (15-inch diameter), that it will be constructed to City standards at the developers expense and dedicated to the City for future City maintenance.
3. The PUD Conceptual Plan shall indicate the 30-foot-wide easement for sanitary sewer that crosses the southwestern corner of the site and include a note to state that no structures or signs shall be placed within the easement.
4. The PUD Conceptual Plan shall include additional information, including cross sectional drawings that identify the depth and side slopes of the proposed basin and capacity calculations for the basin.
5. The PUD Conceptual Plan shall include a 6-foot tall solid wood fence along the north and east property lines. However, the portion of the fence within 30 feet of Adams Avenue property line shall only be 3 feet tall.



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6. The PUD Conceptual Plan shall demonstrate whether pedestrian access to Wallace Lane will be provided. If it is provided, the PUD Conceptual Plan shall demonstrate a sidewalk that connects to other proposed sidewalks within the development.
7. The PUD Conceptual Plan shall demonstrate that the existing fencing along the pedestrian access to Wallace Lane shall be replaced with black vinyl-coated chain-link fencing.
8. The PUD Conceptual Plan shall demonstrate that the buffer yard plantings (two overstory trees and six evergreen trees per 100 lineal feet) will be provided within a 20-foot wide buffer along the entire north and east property lines. This will cause the northern driveway to be shifted approximately 10 feet to the south.
9. The PUD Conceptual Plan shall clarify whether any existing trees are proposed to be removed and provide adequate justification for their removal. Any approved removals shall be subject to the City's mitigation ordinance.
10. The PUD Conceptual Plan shall reflect an overall unified landscaping design, including foundation plantings, plantings surrounding the off-street parking area, and plantings within the planter bed within the off-street parking area as well as street tree plantings.
11. The PUD Conceptual Plan shall be revised to reflect a street tree every 30 lineal feet along both the Beaver Avenue and Adams Avenue frontage.
12. The note on the PUD Conceptual Plan regarding the Beaver Avenue Streetscape shall be revised to state that any future PUD Development Plan shall include design elements of the Beaver Avenue Streetscape along the Beaver Avenue frontage, including but not limited to a minimum 6-foot wide sidewalk, a 6-foot wide planting strip, black streetlight pole(s), black LED street light fixtures, and appropriate tree species.
13. A note shall be added to the PUD Conceptual Plan to state that a minimum 5-foot wide sidewalk and 5-foot wide planting strip will be provided along the Adams Avenue frontage from Beaver Avenue to the west edge of the proposed driveway access along Adams Avenue.
14. The developer shall provide a street lighting design for the Beaver Avenue frontage that complies with the City's street lighting standards.



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15. A note shall be added to state that existing wood utility distribution poles along Beaver Avenue shall be replaced with black poles that match the Beavertdale streetscape at the developer's expense and any overhead service crossings over Beaver Avenue shall be undergrounded at the developer's expense.
16. A public access easement shall be provided for sidewalks along Beaver Avenue and Adams Avenue that extend onto the subject property.
17. The building elevations for the structure shall be revised in accordance with the following:
 - a) A predominant building entrance feature oriented toward Beaver Avenue shall be provided on the west facade and shall be designed to the satisfaction of the Community Development Director. The PUD Conceptual Plan shall demonstrate a sidewalk that connects this entrance to the public sidewalk along Beaver Avenue.
 - b) All building materials shall be clearly labeled on the PUD Conceptual Plan.
 - c) At least two-thirds of the surface area of building façades facing Beaver Avenue or Adams Avenue, as well as the two shorter end facades, shall be sided with brick or stone. At least one-third of the building façades facing the internal parking lot shall be sided with brick or stone.
 - d) A note shall be added to state that any horizontal overlap siding and trim shall consist of cement board material.
 - e) Gables on the structure shall include exposed rafters, decorative beams or braces, and/or shake-style cement board siding.
 - f) A note shall be added to state that all windows on the structure shall be double-hung with a multi-light over single pane "craftsman" style.
 - g) A note shall be added to state that all exterior entry doors on the structure shall have multi-light "craftsman" style windows.
 - h) A note shall be added to state that all windows and exterior entry doors on the structure shall have trim surrounds of at least 4 inches in width.



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- i) A note shall be added to state that the roof will have architectural-type asphalt shingles with a minimum 30-year warranty.
 - j) A note shall be added to state that any decks that are not fully recessed into the structure shall be constructed with steel frames and steel support posts.
 - k) A note shall be added to state that any HVAC equipment shall vent through the roof and rooftop vents shall be complimentary in color to the roofing material. Any rooftop mechanical equipment shall be mounted on the private parking lot side of the building and architecturally screened from view.
 - l) A note shall be added to state that all utility meters, transformers, ground-mounted equipment, and other utilities shall be placed on building facades that face the private parking lot.
18. The note on the PUD Conceptual Plan regarding monuments signs must be clarified to state that any freestanding signage will be monument-style with bases constructed of brick or stone materials that match the masonry materials used on the primary structure.
19. The PUD Conceptual Plan shall demonstrate the location of any outdoor refuse collection container enclosure and provide a statement that any such structure will be constructed with brick or stone materials that match the masonry materials used on the primary structure and steel gates. Any enclosure structure should also include non-gated pedestrian entrance and be sized to accommodate recycling containers. If no outdoor enclosures are proposed, then a note should be added to state that all refuse collection containers must be located within the building.
20. A note shall be added to the PUD Conceptual Plan to state that all site lighting shall be directed downward and shielded from adjoining properties. Any pole mounted lighting along private walkways shall not exceed 15 feet in height and any pole mounted lighting in the parking lot shall not exceed 20 feet in height. Private light poles, pole mounted light fixtures and building mounted light fixtures are to be similar in style to a black KIM archetype light fixture.

WHEREAS, in accordance with the published notice those interested in the proposed amendment to the approved PUD Conceptual Plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.



Roll Call Number

Agenda Item Number

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed amendments to the approved PUD Conceptual Plan for the property in the vicinity of 3001 Beaver Avenue, and more specifically described below, are hereby overruled and the hearing is closed.


The West 5 acres of Lot 5 of the Official Plat of the South 1/2 of the Northwest 1/4 of Section 29, Township 79 North, Range 24 West of the 5th P.M.; and, Lot C, Ashby Manor, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. The proposed amended PUD Conceptual Plan is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified above.

3. The amended PUD Conceptual Plan for the Property described above, which is on file in the Community Development Department, is hereby APPROVED, subject to the plan being first amended to satisfy the conditions recommended by the Plan and Zoning Commission as set forth in the attached letter from the Planning Administrator, and subject to approval of such amendments by the Community Development Director.

MOVED by _____ to adopt and to approve the proposed amendment to the PUD Conceptual Plan.

FORM APPROVED:



Michael F. Kelley, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

CITY ATTORNEY

Jeffrey D. Lester

DEPUTY CITY ATTORNEYS

Mark Godwin
Lawrence R. McDowell
Kathleen Vanderpool

ASSISTANT CITY ATTORNEYS

Roger K. Brown
Ann M. DiDonato
David A. Ferree
Glenna K. Frank
Gary D. Goudelock, Jr.

Michael F. Kelley
Vicky L. Long Hill
Katharine J. Massier
Carol J. Moser
Douglas P. Philip



November 14, 2013

HONORABLE MAYOR AND MEMBERS OF
THE DES MOINES CITY COUNCIL

Re: Amendment of the previously approved PUD Conceptual Plan for the Rice Field site

Executive Summary

The action before the City Council regarding the Rice Field site, for consideration at the public hearing scheduled for November 18, 2013, is the consideration for approval of an amendment to the previously approved PUD Conceptual Plan, to allow the Rice Field site to be developed with a single three-story multiple-family dwelling for senior living. This action is governed by Sec. 134-695, which provides in relevant part as follows:

The council may approve or disapprove the conceptual plan . . . , as submitted or as amended after hearing before the commission, or may require such changes in the plan . . . as the council deems necessary to preserve the intent and purpose of this chapter [being Chapter 134, Zoning,] to promote public health, safety, morals and general welfare.

The City Plan and Zoning Commission has recommended that the amendment to the previously approved PUD Conceptual Plan be approved with conditions.

The proposed amendment may be approved or approved with conditions by the City Council upon the affirmative vote of four of its members. The proposed amendment may be denied by the City council upon the affirmative vote of a majority of quorum.

Discussion

1. History and Present Zoning Status of the Rice Field site.

Iowa Law requires that zoning regulations "be made in accordance with a comprehensive plan". I.C. §414.3(1). The Des Moines 2020 Community Character Plan was adopted on March 26, 2007, by Roll Call No. 00-3381, to serve as the City's comprehensive plan for zoning purposes. The Des Moines Community Character Plan includes a Proposed Land Use Map which serves as a guide for how the City of Des Moines should be developed in the future. Any amendments to

the Official Zoning Map are required by Iowa law to "be made in accordance with" the Proposed Land Use Plan and should serve to implement that Plan.

Comprehensive plans, such as the Des Moines 2020 Community Character Plan, are not static. The Iowa Code provides: "Following its adoption, a comprehensive plan may be amended by the council at any time. I.C. §414.3(4)(c).

On March 26, 2007, by Roll Call No. 07-571, the City Council amended the Des Moines 2020 Community Character Plan to change the future land use designation of the Rice Field site at 3001 Beaver Avenue. The northern half of the site was designated as Low/Medium Density Residential. This designation allows a mix of single-family duplex, and small multiple-family residential units, with a net density of up to 12 units per acres. The southern half of the site was designated as Commercial: Pedestrian-Oriented Neighborhood Node. This designation allows for small-scale commercial development serving primarily the adjacent neighborhood with up to 50,000 square feet of commercial space. Development in this classification should serve the needs of both the pedestrian and the motorist. While the future land use classification identifies the least restrictive, highest density uses allowed, it also permits any development of a more restricted, lower density type.

On March 26, 2007, by Roll Call No. 07-574, the City Council waived readings and enacted Ordinance No. 14,637, which rezoned the Rice Field site to the PUD Planned Unit Development District.

On March 26, 2007, by Roll Call No. 07-572, the City Council conditionally approved a PUD Conceptual Plan for the development of the Rice Field site. The approval was subject to the PUD Conceptual Plan being amended to incorporate a lengthy list of additional requirements, including a requirement that the PUD Development Plan be approved by the City Council. Normally the review and approval of a PUD Development Plan is an administrative function handled by the City staff.

On September 24, 2007, by Roll Call No. 07-1894, the City Council approved a PUD Development Plan for the Rice Field site, subject to the PUD Development Plan being amended to incorporate another list of additional requirements, including a requirement that the project be served by a public storm sewer to be constructed within the Wallace Lane right-of-way.

At this time, the Des Moines 2020 Community Character Plan designates the north half of the Rice Field site as Low/Medium Density Residential, and the south half as Commercial: Pedestrian-Oriented Neighborhood Node. The entire Rice Field site is zoned to the PUD Planned Unit Development District, and is subject an approved PUD Conceptual Plan that allows the site to be redeveloped with a mix of residential and commercial uses, containing of 55 dwellings and 15,810 square feet devoted to commercial use.¹

¹ The information regarding the contents of the approved PUD Conceptual Plan is taken from the Zoning Administrator's letter dated February 26, 2007, and filed with Roll Call No. 07-572 of March 26, 2007, which approved such Plan, and the letter dated October 29, 2013, and filed with Roll Call No. 13-1721, which scheduled a hearing to be held on November 18, 2013, to consider the pending amendment to the approved PUD Conceptual Plan.

2. The Nature of the Pending Amendment to the Approved PUD Conceptual Plan.

The Community Character Plan designates the southern portion of the Rice Field site as Commercial: Pedestrian-Oriented Neighborhood Node and the northern portion of the site as Low/Medium Density Residential. The current future land use designations for the Rice Field site were adopted to in anticipation that the site would be used in conformance with the previously approved PUD Conceptual Plan. The proposed amendment to the PUD Conceptual Plan reduces the number of permitted dwelling units from 55 to 54, eliminates the commercial space and reconfiguring the site layout to increase the setbacks and green space. For these reasons the Zoning Administrator has recommended that the amendment is in substantial conformance with the Des Moines 2020 Community Character Plan. No amendment to the Des Moines 2020 Community Character Plan is proposed.

The Rice Field Site is zoned PUD Planned Unit Development District. No amendment to the official Zoning Map for the Rice Field site is proposed.

The matter now before the City Council is a proposed amendment to the previously approved PUD Conceptual Plan. The City Zoning Administrator and the City Plan and Zoning Commission have recommended that the proposed amendment be approved.

3. The City Council may Approve or Deny the Proposed Amendment to the PUD Conceptual Plan by Resolution Supported by the Affirmative Vote of Four of its Members.

Iowa Code §380.4 establishes the general rule that: "Passage of an ordinance, amendment or resolution requires a majority vote of all the members of the City Council." The phrase "all of the members of the council" as used in this general rule is defined in I.C. §380.1 (1) as "all of the seats of the council including a vacant seat and a seat where a member is absent, but does not include a seat where the council member declines to vote by reason of a conflict of interest." Since there are seven seats on the Des Moines City Council, at least four affirmative votes are required to constitute a majority vote. This is not affected by the presence of the vacant seat last held by Brian Meyer.

This general rule is subject to various exceptions. There are two exceptions that must be considered under the present circumstances. The first exception is created by the language in §414.5 of the Iowa Code, and the second by Section 134-700 of the Des Moines City Code.

Iowa Code §414.5 addresses the process for amending the zoning regulations, restrictions and boundaries that are established by ordinance. It contains a protest provision which requires a supermajority vote by the City Council to approve zoning changes that fall within the scope of the provision.

414.5 Changes — protest.

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. *Notwithstanding section 414.2, as a part*

