



Roll Call Number

19-1053

Agenda Item Number

65B

Date June 24, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM WE CAN BUILD IT, LC TO REZONE AND APPROVE PUD CONCEPTUAL PLAN FOR PROPERTY LOCATED AT 4801 FRANKLIN AVENUE

WHEREAS, on April 22, 2019, by Roll Call No. 19-0634, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on April 4, 2019, its members voted 12-0 in support of a motion to recommend APPROVAL of a request from We Can Build It, LC (owner), represented by Jeff Young (officer), to rezone property located at 4801 Franklin Avenue ("Property") from Limited "C-1" Neighborhood Retail Commercial District to "PUD" Planned Unit Development, and to approve the proposed "Franklin Junior High School PUD Conceptual Plan", to allow a mixed-use renovation of the existing school and church building for uses which may include the following or similar uses and estimated areas identified in Roll Call No. 19-0634 or updated thereafter and identified as follows:

- approximately 26,072 square feet 30-room boutique hotel;
• an approximately 38,275 square feet auditorium ("Large Auditorium");
• an approximately 8,450 square foot auditorium;
• an approximately 4,144 square feet "blackbox" theater;
• approximately 9,762 square feet of athletic/gymnasium space;
• an approximately 6,033 square feet micro-brewery for production only;
• an approximately 1,346 square feet event venue;
• an approximately 1,286 square feet event venue;
• an approximately 3,839 square feet restaurant;
• an approximately 1,362 square feet bar/tavern;
• an approximately 800 square feet outbuilding for restaurant use;
• three concession spaces allowing alcohol sales within the building, which shall be open only during events to serve event patrons, including (i) an approximately 2,849 square foot concession space; (ii) an approximately 1,207 square foot concession space; and (iii) an approximately 7,824 square foot concession space (Large Auditorium lobby);
• approximately 3,410 square feet of conference space;
• approximately 2,867 square feet of retail space;
• an approximately 5,586 square feet Montessori school;
• approximately 25,824 square feet of office space; and

WHEREAS, the recommendation of approval by the Plan and Zoning Commission was subject to the following conditions on the Conceptual Plan:

1. The PUD Conceptual Plan shall be updated to reflect the floor area and parking calculations for the proposed uses submitted by the applicant and included in Section II, subparagraph 2 of the Staff Report and Recommendation to the Plan and Zoning Commission dated April 4, 2019.
2. The PUD Conceptual Plan shall be updated to reflect the additional project description information submitted by the applicant and included in Section I, subparagraph 1 of the Staff Report and Recommendation to the Plan and Zoning Commission dated April 4, 2019.
3. Provision of easements for all existing utilities to the satisfaction of the City Engineer.
4. Provision of a note on the PUD Conceptual Plan that states, "all site lighting shall be directed downward and shielded from adjoining properties. Any pole mounted lighting along private



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walkways shall not exceed 15 feet in height and any pole mounted lighting in a parking area shall not exceed 20 feet in height.”

5. Provision of a note on the PUD Conceptual Plan that states, “direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 footcandles for residential, 2.0 footcandles for commercial). The Development Plan must contain illuminance models showing light levels throughout the site.”
6. Provision of a note on the PUD Conceptual Plan that states, “all utility and similar service lines to buildings shall be located underground.”
7. Provision of a note on the PUD Conceptual Plan that states, “all rooftop mechanical equipment shall be screened with material that is architecturally compatible with the building to the satisfaction of the City’s Planning Administrator.
8. Provision of a note on the PUD Conceptual Plan that states, “all utility meters, transformers, ground-mounted equipment, and other utilities shall be placed along rear facades or facades that are internal to the site to the satisfaction of the City’s Planning Administrator.”
9. Provision of a note on the PUD Conceptual Plan that states, “landscaping and buffering shall be provided in accordance with the City’s Landscaping Standards for the ‘C-2’ District or exceeded as illustrated on the Conceptual Plan or determined necessary by the City’s Planning Administrator.”
10. Provision of a note on the PUD Conceptual Plan that states, “additional building mounted signage may be provided for individual tenants so long as the signage complies with the ‘C-1’ District standards to the satisfaction of the City’s Planning Administrator.”
11. Provision of a note on the PUD Conceptual Plan that states, “sidewalk connections to the adjoining park shall be provided to the satisfaction of the City’s Planning Administrator, and Park and Recreation Director.”
12. Provision of a note on the PUD Conceptual Plan that states, “all uses of the property shall comply with article IV of chapter 42 of the City Code pertaining to noise control. Outside speakers or amplified sound is prohibited except when used in compliance with a type E sound permit.”
13. Provision of a note on the PUD Conceptual Plan that states, “litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.”
14. Provision of a note on the PUD Conceptual Plan that states, “the PUD Conceptual Plan shall be subject to a legislative amendment to preclude the sale of liquor, wine and/or beer if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of approval.”
15. Review and approval of the Final Development Plan by the Plan and Zoning Commission and the City Council; and

**WHEREAS**, We Can Build It, LC and City staff have suggested that conditions #1, 2 and 12 as recommended above by the Plan and Zoning Commission be revised as follows:

1. The PUD Conceptual Plan shall be updated to reflect the project description stated on the June 24, 2019 City Council hearing resolution.
2. The PUD Conceptual Plan shall be updated to reflect the project description stated on the June 24, 2019 City Council hearing resolution.

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Roll Call Number

19-1053

Agenda Item Number

65B

Date June 24, 2019

- 12. Provision of a note on the PUD Conceptual Plan that states, "all uses of the property shall comply with article IV of chapter 42 of the City Code pertaining to noise control. Outside speakers or amplified sound is prohibited except: (a) for Franklin Gardens when used in compliance with a Type E sound permit for Franklin Gardens, and (b) for an approved outdoor special event pursuant to a sound permit authorized by resolution of the Des Moines City Council."; and

WHEREAS, We Can Build It, LC and City staff have suggested that the following additional conditions #16, 17 and 18 be included on the Conceptual Plan:

- 16. Provision of a note on the PUD Conceptual Plan that states, "Franklin Gardens shall close at 10 pm daily."
- 17. Provision of a note on the PUD Conceptual Plan that states, "no more than eight (8) events per month in the Large Auditorium shall extend past 9 pm. Such events shall end by 11:00 pm."
- 18. Provision of a note on the PUD Conceptual Plan that states, "outdoor special events shall only be allowed by resolution of the Des Moines City Council. Outdoor alcohol sales shall be limited to Franklin Gardens, except as authorized by resolution of the Des Moines City Council for approved outdoor special events, and subject to issuance of applicable beer, wine or alcoholic liquor sales permit(s).;" and

WHEREAS, on April 22, 2019, by Roll Call No. 19-0634, it was duly resolved by the City Council that the application from We Can Build It, LC to rezone the Property and for approval of the PUD Conceptual Plan, be set down for hearing on May 20, 2019 at 5:00 P.M., in the Council Chamber at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and

WHEREAS, on May 20, 2019, by Roll Call No. 19-0835, the City Council opened and continued the public hearing on the proposed rezoning of the Property to the Council meeting on June 24, 2019 at 5:00 p.m.; and

WHEREAS, in accordance with said notice, those interested in said proposed rezoning and 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; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property in the vicinity of 4801 Franklin Avenue, legally described as:

THE SOUTH 685.6 FEET OF THE EAST 608.3 FEET AND THE NORTH 220.8 FEET OF THE EAST 500 FEET OF LOT 2 IN FRANKLIN PLAZA, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

from Limited "C-1" Neighborhood Retail Commercial District to "PUD" Planned Unit Development, and to approve the proposed "Franklin Junior High School PUD Conceptual Plan", to allow a mixed-use renovation of the existing school and church building as described above.

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, and any and all statements of interested persons and arguments of counsel,



**Roll Call Number**

19-1053

**Agenda Item Number**

65B

**Date** June 24, 2019

any objections to the proposed rezoning of the Property to "PUD" Planned Unit Development District, and any objections to the proposed "Franklin Junior High School PUD Conceptual Plan" with revisions as set forth above, are hereby overruled, and the hearing is closed.

2. The proposed rezoning of the Property, as legally described above, to "PUD" Planned Unit Development District, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

3. The proposed "Franklin Junior High School PUD Conceptual Plan", as on file in the Community Development Department, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein, and subject to the revisions identified below, and subject to the Community Development Director finding that such revisions have been satisfied by amendments to the Plan:

1. The PUD Conceptual Plan shall be updated to reflect the project description stated on the June 24, 2019 City Council hearing resolution.
2. The PUD Conceptual Plan shall be updated to reflect the project description stated on the June 24, 2019 City Council hearing resolution.
3. Provision of easements for all existing utilities to the satisfaction of the City Engineer.
4. Provision of a note on the PUD Conceptual Plan that states, "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 a parking area shall not exceed 20 feet in height."
5. Provision of a note on the PUD Conceptual Plan that states, "direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 footcandles for residential, 2.0 footcandles for commercial). The Development Plan must contain illuminance models showing light levels throughout the site."
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9. Provision of a note on the PUD Conceptual Plan that states, "landscaping and buffering shall be provided in accordance with the City's Landscaping Standards for the 'C-2' District or exceeded



**Roll Call Number**

19-1053

**Agenda Item Number**

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**Date** June 24, 2019

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★ Roll Call Number  
19-1053

Agenda Item Number  
65B

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MOVED BY Boesen TO ADOPT; refer to the City Manager for review and recommendation regarding signage for the project.

FORM APPROVED:

Glenna K. Frank  
 Glenna K. Frank, Assistant City Attorney

(ZON2019-00040)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIED			APPROVED	

Bill Gray  
 MAYOR PRO TEM

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.

Diane Rauh City Clerk