



Roll Call Number

20-1665

Agenda Item Number

29

Date October 19, 2020

**RESOLUTION APPROVING ISSUANCE OF PHASED FOOTINGS AND FOUNDATION PERMIT FOR REHABILITATION AND DEVELOPMENT PROJECT LOCATED AT 3750 GRAND AVENUE**

**WHEREAS**, on January 13, 2020, by Roll Call No. 20-0110, the City Council approved Ordinance No. 15,851 rezoning real property located in the vicinity of 3750 Grand Avenue from the “R-3” Multiple-Family Residential District and “R1-80” One-Family Residential District to the “PUD” Planned Unit Development District classification, constituting a “Legacy PUD” under the current Zoning Code and Planning and Urban Design Code (Chapters 134 and 135 of the Municipal Code); and

**WHEREAS**, on February 24, 2020, by Roll Call No. 20-0346, the City Council approved an Urban Renewal Development Agreement with BH 3750 Grand, LLC (“Developer”) for the partial rehabilitation and construction of an eight-story residential building with approximately 38 condominiums and 59 indoor parking stalls, including partial rehabilitation of the vacant First Church of Christ Scientist building, to be located at 3750 Grand Avenue; and

**WHEREAS**, Des Moines Municipal Code Section 134-2.2.9.C requires that Legacy PUD Final Development Plans be submitted for review and approval to the City Plan and Zoning Commission and City Council; and

**WHEREAS**, the Developer has very recently submitted its Legacy PUD Final Development Plan for review as required by the City’s Planning and Design Code, with City Plan and Zoning Commission review anticipated for November 2020 and City Council consideration anticipated for December 2020 due to the Developer’s delay in submitting said Plan for City review; and

**WHEREAS**, the Developer wishes to commence construction of footings and concrete work in fall 2020 and has requested the issuance of a phased footings and foundation permit in order to meet its schedule, and has identified as its hardship that over half of residential units in the project have been pre-sold with buyer expectations for closing in March 2022, which timeline will only be met if footings and foundations can be poured prior to the upcoming winter season, and any further delay would risk the overall project feasibility; and

**WHEREAS**, in accordance with Municipal Code Section 135-9.3.7.F, City Development Services Department staff are able to administratively issue phased permits for limited construction purposes in certain circumstances prior to final plan approval; and

**WHEREAS**, City staff have agreed to issue a phased permit for limited construction purposes for the above-described project, prior to consideration of the City Plan and Zoning Commission and the City Council of the project’s Legacy PUD Final Development Plan, which permit will allow the Developer to install footings, foundations, and structural elements up to the finished grade floor level elevation; and

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**WHEREAS**, said phased permit will be issued following City administrative review and approval of the construction documents and structural plans provided by Developer requesting said permit; and

**WHEREAS**, said phased permit will further be subject to Developer responsibility for completion of the Legacy PUD Final Development Plan review and approval process and for obtaining a building permit for the remainder of the building at such time as the Plan is approved, and at the Developer's sole risk for commencing construction prior to said approvals; and

**WHEREAS**, City staff have further determined to provide this specific request for a phased permit to Council due to the pending consideration of the Legacy PUD Final Development Plan and due to the Urban Renewal Development Agreement entered into by the Developer and the City as described above.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that the issuance by the Development Services Department of a phased footings and foundation permit for the development of property located at 3750 Grand Avenue, limited solely to the work of footings, foundations, and structural elements up to the finished grade floor level elevation, and presented to City Council due to the pending consideration of the Legacy PUD Final Development Plan, the hardship as described by the Developer, and the Urban Renewal Development Agreement between the Developer and the City, is hereby confirmed, following City administrative review and approval of the construction documents and structural plans provided by Developer requesting said phased permit.

(Council Comm. No. 20-462)

MOVED BY Boesen TO ADOPT.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
COWNIE	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

**CERTIFICATE**

I, P. KAY CMELIK, 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.

J. M. Frank Cownie  
MOTION CARRIED APPROVED  
Mayor

P. Kay Cmelik  
City Clerk