CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: September 21, 2015

ITEM: Valley South/Watson Center PUD, SE corner of Westown Parkway and Valley West Drive - Amend the Valley South/Watson Center PUD to establish Regional Commercial zoning and amend allowed uses – The Shoppes at Valley West, LLC - ZC-002809-2015

Ordinance: Approval of First Reading

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The applicant, David Harmeyer of Shoppes at Valley West LLC, is requesting an amendment to the Valley South/Watson Center Planned Unit Development to allow breweries with tap rooms in the PUD and to identify Regional Commercial zoning as the governing district (see Exhibit 1, Attachment B – Location Map and Exhibit II – Proposed PUD Amendment Ordinance).

Plan and Zoning Commission Action:
Vote: 5-0 approval, Commissioners Andersen and Crowley absent
Date: September 15, 2015
Motion: Adopt a resolution recommending the City Council approve the ordinance amendment.

OUTSTANDING ISSUES: There is one outstanding issue.

Previous Board of Adjustment Action regarding a Permitted Conditional Use for a Brewery with Tap Room: On September 9, 2015, the Board of Adjustment approved a Permitted Conditional (Pc) Use permit to allow a brewery with tap room use in the Valley South/Watson Center PUD, which is south of Westown Parkway on the east side of Valley West Drive. As part of the Pc, staff recommended that twenty (20) additional feet of right-of-way for Westown Parkway be provided to the City in the form of an irrevocable offer of dedication and that the sanitary sewer easement running through the property be brought into compliance with regard to the width of the easement based upon the depth of the sewer.

The property owner discussed with the Board the perceived impacts to parking for the multi-tenant building within their property in providing the desired right-of-way and the potential impact to existing buildings with an increase in the width of the sewer easement, as well as raised concerns with repair responsibilities to concrete and landscaping should the easement be accessed by the City. The applicant asked that the conditions of approval related to these items be removed from the approval of the Pc application to allow the brewery with tap room in the PUD. For both conditions, the Board of Adjustment recommended that these items be addressed in a subsequent Planned Unit Development ordinance amendment intended for the entire development and removed the conditions of approval related to these two items for the approval of the brewery with tap room use. Staff recommended to the Board that a full re-write of the Valley South/Watson Center PUD be a condition of approval. The property owner agreed at the Board of Adjustment meeting to apply for a further amendment to the PUD to address the right-of-way and the sanitary sewer easement, and other matters within the PUD. The Board of Adjustment did not place any timing on the larger PUD amendment.

Condition of Approval Regarding Building Permits: Tonight's recommended PUD amendment only is to allow the brewery use and designate a zoning district to the development. A subsequent PUD amendment will entail a detailed look at the entire site and will address such things as allowed signage, building and parking setbacks, landscaping requirements, further define allowed uses, etc. (The impacts of the potential dedication of additional street right-of-way and easement width will be analyzed as part of that amendment.)

As part of the Plan and Zoning Commission staff report for this amendment to the PUD, Staff recommended a condition of approval that required that the application for the subsequent larger PUD amendment be submitted immediately and that a proposed ordinance be ready to be presented to the Plan & Zoning Commission no later than

their December 7, 2015, meeting and to the City Council no later than December 14, 2015, meeting. As part of the condition, Staff recommended that if either the dates weren't met or the PUD amendment discussions weren't progressing, that no permits (planning, tenant improvement, sign or building) be allowed until the PUD amendment issues were fully addressed. Staff recommended this as part of the condition of approval to keep the City and the property owner working faithfully to address the PUD issues. The applicant fully acknowledges the need for a PUD amendment to address current and future site improvements and/or issues. The Plan and Zoning Commission at their meeting on September 14, 2015, recommended to the City Council approval of the current PUD amendment to allow the brewery with tap room, with the condition of approval as recommended by staff.

Since the Plan and Zoning Commission meeting, the City Attorney determined that there was no identifiable nexus between the proposed brewery with tap room, which is being established in an existing building within the site with no request for site improvements, and a request of twenty (20) additional feet of right-of-way or additional sanitary sewer easement area. Staff did inform the applicant, that these issues may arise again in the future depending upon development of the center and the addition of specific high traffic or sewer generating uses. The applicant is still in agreement that a subsequent PUD amendment is necessary to address development regulations for the site and intends to start this process in the near future. The applicant also acknowledges the possibility that in the future there may be a nexus for the City to request the additional right-of-way and/or sewer easement area.

Based upon the City Attorney's opinion of there being no nexus at this time between the use of an existing building for a brewery with tap room and additional right-of-way dedication or revised sanitary sewer easement, Staff recommends that the Plan & Zoning Commission's condition of approval be removed as part of the recommendation for approval for the PUD amendment.

The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Request
- History
- City Council Subcommittee *(Development & Planning, July 16, 2015)*
- Staff Review and Comments
    - *Right-of-Way Dedication and Sanitary Sewer Easement:*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval

RECOMMENDATION TO PLAN AND ZONING COMMISSION: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the first reading to amend the Valley South/Watson Center PUD to establish Regional Commercial zoning and amend allowed uses, subject to the applicant meeting all City Code requirements and the following:

1. That the applicant work with staff to complete an amendment to the Valley South/Watson Center Planned Unit Development which addresses right-of-way, sanitary sewer, uses, signage, and other site design elements and requirements for presentation to the Plan & Zoning Commission no later than December 7, 2015, and to the City Council no later than December 14, 2015. Failure to meet these dates, unless working in good faith, will result in no building permits (including tenant improvement permits not related to the brewery), sign permits (except one sign permit for the brewery), minor modification permits, major modification permits, or permitted conditional use permits being allowed until adoption of a revised PUD ordinance.

STAFF RECOMMENDATION TO CITY COUNCIL: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, Staff recommends the City Council approve the first reading to amend the Valley South/Watson Center PUD to establish Regional Commercial zoning and amend allowed uses, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser

STAFF REVIEWS:

Department Director	
Appropriations/Finance	
Legal	JBW
Agenda Acceptance	RTG

PUBLICATION(S) (if applicable)

Published In	*Des Moines Register*	
Date(s) Published	September 4, 2015	
Letter sent to surrounding property owners		September 2, 2015

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development and Planning		
Date Reviewed	July 16, 2015		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution
- Attachment B - Proposed Rezoning Ordinance *(now Exhibit II)*

Exhibit II - Proposed Rezoning Ordinance

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION

Meeting Date: September 14, 2015

Item: Valley South/Watson Center PUD, SE corner of Westown Parkway and Valley West Drive - Amend the Valley South/Watson Center PUD to establish Regional Commercial zoning, amend allowed uses, and modify development regulations – The Shoppes at Valley West, LLC - ZC-002809-2015

Requested Action: Approval of a PUD amendment

Case Advisor: Kara Tragesser, AICP, Planner

Applicant's Request: The applicant, David Harmeyer of Shoppes at Valley West LLC, is requesting an amendment to the Valley South/Watson Center Planned Unit Development to allow breweries with tap rooms in the PUD and to identify the zoning of the PUD as a Regional Commercial district (see Attachment B – Location Map, and Attachment C – Proposed PUD Amendment Ordinance).

History: The Valley South/Watson Center Planned Unit Development was established in 1978 and was last amended in 1987. The PUD provides for no particular zoning district for the property and only provides for bank uses, fitness center, retail, office, and non-formula restaurants. Therefore, to allow a brewery with tap room in the PUD, a PUD amendment is necessary. On September 8, 2015, the City Council adopted a zoning ordinance amendment that allows breweries with tap rooms under 10,000 sq. ft. in size in some of the regional commercial districts. At the same time, staff recommends that a zoning district, Regional Commercial, be designated as well.

City Council Subcommittee: This item was presented to the Development and Planning City Council Subcommittee on July 16, 2015. The Subcommittee was supportive of these requested changes.

Staff Review and Comment: There are no outstanding issues. Staff notes the following:

Right-of-Way Dedication and Sanitary Sewer Easement: A companion application to the Board of Adjustment to allow, by permitted conditional use permit, a brewery with tap room was approved on September 8, 2015. As part of the review of the permitted conditional use permit, staff recommended that an additional 20 feet of right-of-way along Westown Parkway be dedicated to meet comprehensive plan standards and to accommodate utilities. The recommendation was for the execution of an irrevocable offer of dedication for the right-of-way. Staff explained that the dedication of right-of-way was to meet the standards in the Comprehensive Plan immediately and to provide the necessary right-of-way for potential roadway improvements and utility construction in the future. The property owner indicated that the right-of-way dedication would eliminate key parking at the center and requested that the recommended document not be required as a part of the approval of the permitted conditional use permit.

Likewise, as part of the review of the permitted conditional use permit, staff recommended that the sanitary sewer easement within the PUD be widened to meet current Occupational Safety and Health Administration (OSHA) standards for open trenches (which are trenches that are dug with a 1:1 slope, one foot wide for each 1 foot in depth). The sanitary sewer in the development is as much as 25 feet deep in places. The existing 20 feet-wide easement runs along the southern boundary of the site then turns north along Valley West Drive to Westown Parkway. The recommended easement is 50 feet to accommodate the deepest sewer portion. Not having the proper easement width hinders the ability of the City to service this sewer. The property owner was concerned that the easement would impact existing improvements, such as parking lot paving, and possibly encroach into a building in one area and requested that the recommended easement not be required as part of the approval of the permitted conditional use permit.

In both cases, the Board of Adjustment recommended that these items be addressed in a subsequent Planned Unit Development ordinance amendment intended for the entire development and removed the conditions of approval related to these two items. This amendment is only to address the zoning and to allow a brewery under 10,000 sq. ft.

in the PUD. Due to the limited time between the Board of Adjustment meeting and the Plan & Zoning Commission meeting, staff recommends, subject to today's action of the proposed amendment, that a full re-write of the Valley South/Watson Center PUD be a condition of approval and that the proposed amendment for consideration at this meeting be approved to address the zoning of the property and the allowed use of the brewery with tap room as a permitted conditional use. The property owner agreed at the Board of Adjustment meeting to apply for a further amendment to the PUD to address the right-of-way and the sanitary sewer easement, and other matters within the PUD. Staff recommends a condition of approval that requires that the application for a PUD amendment be submitted immediately and that a proposed ordinance be faithfully established toward being presented to the Plan & Zoning Commission no later than their December 7, 2015, meeting and to the City Council no later than December 14, 2015, meeting. Staff recommends including dates in the condition to encourage the applicant to faithfully work through the amendment and allow occupancy of the building.

Comprehensive Plan Consistency: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

Noticing Information: On September 4, 2015, notice of the September 14, 2015, Plan and Zoning Commission public hearing for this project was published in the *Des Moines Register*. Notice of this public hearing also was mailed to all surrounding property owners within 370 feet of the subject property affected by this amendment on September 2, 2015.

Staff Recommendations and Conditions of Approval: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, staff recommends that the Plan and Zoning Commission adopt a resolution recommending the City Council approve an amendment to the Valley South/Watson Center Planned Unit Development to apply Regional Commercial zoning standards to the development and to allow a brewery with tap room, both being subject to the applicant meeting all City Code requirements and the following:

1. That the applicant work with staff to complete an amendment to the Valley South/Watson Center Planned Unit Development which addresses right-of-way, sanitary sewer, uses, signage, and other site design elements and requirements for presentation to the Plan & Zoning Commission no later than December 7, 2015, and to the City Council no later than December 14, 2015. Failure to meet these dates, unless working in good faith, will result in no building permits (including tenant improvement permits not related to the brewery), sign permits (except one sign permit for the brewery), minor modification permits, major modification permits, or permitted conditional use permits being allowed until adoption of a revised PUD ordinance.

Applicant: Shoppes at Valley West LLC
2400 86th Street Suite 24
Des Moines IA 50322
515-276-3456
Dave Harmeyer
dave@vistarei.com

Owners: Same as above

Applicant's Representatives:
Aaron Hyde
Ferguson Commercial Real Estate
1840 NW 118th Street
Clive IA 50325
515-440-0400
aaron@fergusoncres.com

Attachments:

Attachment A	-	Plan and Zoning Commission Resolution
Attachment B	-	Location Map
Attachment C	-	Proposed Rezoning Ordinance

ATTACHMENT A

RESOLUTION NO. PZC-15-067

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND THE VALLEY SOUTH/WATSON CENTER PLANNED UNIT DEVELOPMENT TO DESIGNATE ZONING AND ADD BREWERIES WITH TAP ROOMS TO THE ALLOWED USES

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Shoppes at Valley West LLC., has requested approval to amend the Valley West/Watson Center Planned Unit Development Ordinance (PUD) to designate the application of Regional Commercial zoning regulations and to allow breweries with tap rooms in the PUD, for property legally described as:

Legal Description

See Exhibit B

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on September 14, 2015, this Commission held a duly-noticed hearing to consider the application for an amendment to the Valley South/Watson Center Planned Unit Development (ZC-002809-2015);

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report for this hearing or as amended orally at the hearing are adopted.

SECTION 2. The amendment to Valley South/Watson Center Planned Unit Development is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report including conditions added at the Hearing, and attached hereto as Exhibit A. Violation of any such conditions shall be grounds for revocation of the ordinance, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on September 14, 2015.

Craig Erickson, Chair
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 14, 2015, by the following vote:

AYES: Brown, Costa, Erickson, Hatfield, Southworth
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Andersen, Crowley

ATTEST:

Recording Secretary

EXHIBIT B

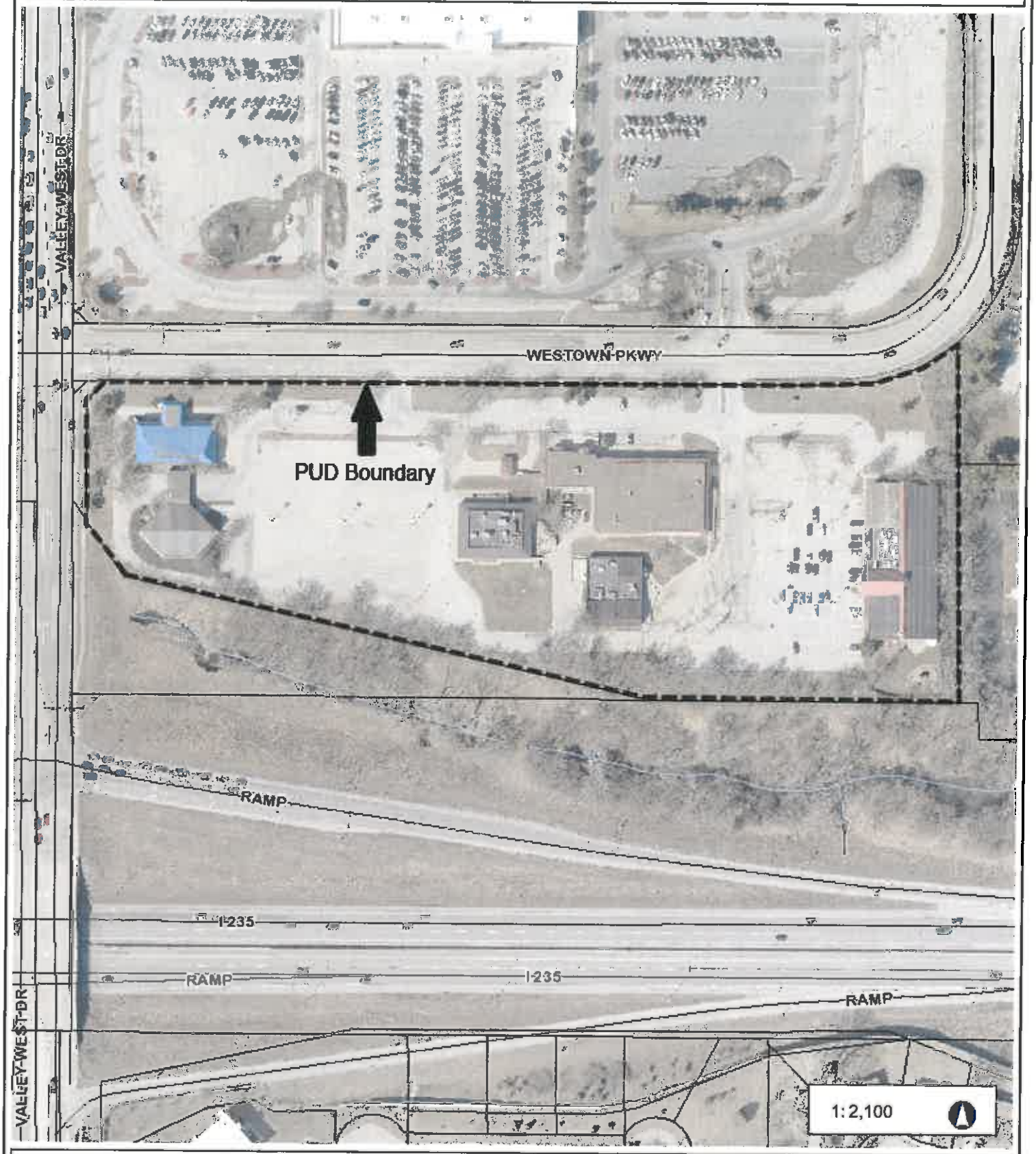
That part of the North 80 Acres of the West 1/2 of the Northwest Fractional 1/4 of Section 4, Township 78 North, Range 25 West of the 5th P.M., West Des Moines, Polk County, Iowa, described as follows: Commencing at the West 1/4 corner of said Section 4; thence North 902.8 feet along the West line of said Section 4; thence East, 50.0 feet to the point of beginning; thence continuing East 1063.72 feet; thence along a curved line, concave Northwesterly, having a radius of 250.0 feet and a chord bearing of N61°18'45"E, an arc distance of 250.34 feet to the point of intersection of said curved line and the East line of the West 1/2 of said Northwest Fractional 1/4 of said Section 4; thence S0°16'30"E, 574.79 feet along said East line of said West 1/2 to the South line of said North 80 Acres of said West 1/2 of said Northwest Fractional 1/4; thence N89°29'15"W, 497.81 feet, along said South line of said North 80 Acres to the point of intersection of said South line and the Northeasterly right of way line of Interstate Highway No. 235; thence N75°21'40"W, 732.86 feet along said Right of Way line; thence continuing along said Right of Way line N33°47'33"W, 125.86 feet to the point of intersection of said Northeasterly Right of Way line and the East Right of Way line of 35th Street, West Des Moines; thence North 165.15 feet along said East Right of Way line to the point of beginning, (except the East 48.5 feet thereof, and also except that portion condemned for street right of way as recorded in Book 9954 Page 507) all being in and forming a part of the City of West Des Moines, Polk County, Iowa.

Exhibit A
Conditions of Approval

1. That the applicant work with staff to complete an amendment to the Valley South/Watson Center Planned Unit Development which addresses right-of-way, sanitary sewer, uses, signage, and other site design elements and requirements for presentation to the Plan & Zoning Commission no later than December 7, 2015, and to the City Council no later than December 14, 2015. Failure to meet these dates, unless working in good faith, will result in no building permits (including tenant improvement permits not related to the brewery), sign permits (except one sign permit for the brewery), minor modification permits, major modification permits, or permitted conditional use permits being allowed until adoption of a revised PUD ordinance.

ATTACHMENT B

Valley South-Watson Center PUD



350.0 0 175.00 350.0 Feet

NAD_1983_StatePlane_Iowa_South_FIPS_1402_Feet

© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Prepared by: KTragesser City of West Des Moines, PO Box 65320, West Des Moines, IA 50265
Return To: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265
Tax Statement: Not Applicable

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2014, AND ORDINANCE #625, #675, #697, #797, AND #839 (ALSO KNOWN AS PUD #20 VALLEY SOUTH/WATSON CENTER) PERTAINING TO P.U.D. (PLANNED UNIT DEVELOPMENT) DISTRICT REGULATIONS AND GUIDELINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT: Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS is hereby amended by adding text in bold lettering and deleting text in strikethrough lettering as follows:

> ~~Whereas, Section 6 of Ordinance 497 amended Ordinance 430 by creating Article XX(a), PUD District establishes certain regulations and guidelines pertaining to accompanying information required on a final site plan and final site plan documents, now, therefore, the following conditions, and regulations are adopted as part of this rezoning:~~
>
> **Whereas, title 9, chapter 9, "Planned Unit Development District", of the city code, establishes certain regulations and guidelines pertaining to accompanying information required on plat and site plan documents. Now, therefore, the following conditions, restrictions, and regulations are adopted as part of this approval:**

SECTION 2. AMENDMENT: Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS is hereby amended by adding a new paragraph A and re-lettering all sections thereafter sequentially:

> **A. Unless otherwise provided for within this ordinance, the use regulations and provisions set forth in title 9 of the city code for the regional commercial district (RC) shall apply to any development proposal for the property within the PUD**

SECTION 3. AMENDMENT: Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS, re-lettered Section B, Paragraph 1 is hereby amended by adding text in bold lettering as follows:

1. Building locations, maximum square footages, traffic patterns, and proposed usages shall be as shown on the revised sketch plan, with the understanding that minor shifts or adjustments to traffic patterns and building locations may be necessary and compatible with the need to acquire workable traffic patterns and usable building sites, but the general plan layout shall be used as an implementation guide. Provided further, within the central pod one office building, two (2) restaurants **or one brewery with tap room and one restaurant**, and one multiple use general retail building shall be permitted with usage location in accordance with the approved sketch plan, or any amendment thereto. The total combined square footage for the four (4) buildings in the central pod shall not exceed thirty nine thousand (39,000) square feet with the combined square footage of restaurant space, **brewery and tap room space,** and general retail space not to exceed thirty four thousand (34,000) square feet, and the total combined square footage of restaurant space **and/or brewery and tap room space** not to exceed sixteen thousand (16,000) square feet. Provided, however, any professional office building of double square footage may be substituted for any commercial usage, and any general retail of equal square footage may be substituted for restaurant space.

SECTION 4. SAVINGS CLAUSE: If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 5. VIOLATIONS AND PENALTIES: Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

SECTION 6. OTHER REMEDIES: In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 7. EFFECTIVE DATE: This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on this ____ day _____ 2015.

_____
Steven K Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____ 2015.

_____
Ryan T. Jacobson, City Clerk

S:___Development Projects\Valley South-Watson Center\PUD Amendment\ZC-002809-2015_SR_Valley South Watson Center PUD Amendment_CC 1st_09-21-2015.doc