

BOARD OF ADJUSTMENT MEETING MINUTES

BOA_AF_06-13-2018

Chairperson Cunningham called to order the June 13, 2018, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in the City Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Present

Item 1 – Consent Agenda

Item 1a – Minutes of May 30, 2018

Moved by Board Member Pfannkuch, seconded by Board Member Blaser, to approve the May 30, 2018 meeting minutes.

Vote: Blaser, Celsi, Cunningham, Pfannkuch.....Yes
Christiansen.....Abstained

Motion carried.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a –Foundry Distillery Bar, 111 S. 11th Street – Permitted Conditional Use Permit to operate a drinking place – Scott Bush – PC-002912-2018

Chairperson Cunningham opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on June 1, 2018, in the Des Moines Register.

Chairperson Cunningham then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Christianson seconded by Board Member Pfannkuch, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Scott Bush, 2800 Berkshire Dr, Norwalk, founder of the Distillery Company, stated he feels they have created a well done, high end facility. A glass wall has been incorporated so people can feel they are experiencing how it all works; the proposed bars are high end and part of the experience they are trying to accomplish.

Board Member Blaser asked if one of these two bar areas inside the Foundry is currently serving alcohol... Mr. Bush responded that neither bar is serving now as the business is not open.

Chairman Cunningham clarified that there was no outdoor music planned on the patio. Mr. Bush stated there was not.

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Chairperson Cunningham then asked for questions or comments from the audience.

Ed Engler, 128 11th St, expressed approval of the building and noted that sound from that area bounces off the wall behind his home. He suggested noise reducers such as a wood wall could be incorporated toward the tracks, and more substantial plantings if noise becomes an issue. He asked who to approach if there developed a concern with noise.

Linda Schemmel, Development Coordinator, responded that any noise concerns were referred to Community Compliance officers during business hours the Police Department after hours. She added that the Board of Adjustment is not seen any improvement plans with this application because the request is just for the use. The outdoor space includes an 8 foot glass wall to help mitigate sound, all the doors have to remain closed and there is no amplified music is allowed per the PUD. The Board can recommend additional restrictions conditioning the approval. Staff has contacted a separate tenant (The Hall at the Foundry) in the building regarding the recent noise complaint.

Helen Rodish, 109 13th St, asked to be put on record that there is noise from the establishment (the Hall). She commended the police department for doing a good job managing the area with regard to alcohol related issues. She noted that she can hear noise from the bingo game broadcast from The Hall while outdoors at her home, and that her tenants who live with 370 feet of The Hall have complained that they can't sit outside and talk. She expressed concern about special events permitting allowing outdoor amplification.

Brad McIntire, 107 10th St, noted that he did not believe the music and bingo being heard by the neighborhood around The Hall were allowed, and wanted The Foundry to be placed under the same noise restrictions.

Chairman Cunningham asked the applicant if he wished to address any of the comments at this time. Mr. Bush stated that he appreciated all of the comments and had an open door policy, inviting anyone who wished to talk to him about their concerns to please do so.

As there were no further questions, Chairman Cunningham closed public hearing and asked to hear Staff presentation.

Kara Tragesser, Development Services Planner, referenced to the memo placed on the dais concerning a comment regarding the noise coming from the Hall at the Foundry. She noted that the PUD does specifically state that regardless of the use in the building, there is no amplified sound allowed. Ms. Tragesser has notified the tenant about the restriction in the PUD.

Board Member Christiansen asked that the Staff response on the written memo be placed on the monitors so that everyone present could read it. Ms. Tragesser continued; that the PUD applies to the Distillery, the Hall, and the commercial kitchen that has yet to be constructed. She encouraged residents to call Code Enforcement, after hours to call the Police, and also stated residents could contact her. She detailed that the distillery is requesting bars because they wish to serve alcoholic beverages beyond what state code allows distilleries to sell within their building. Nothing is changing site-wise. Mr. Bush had indicated they would operate more hours than the beer hall, and staff had accommodated this. Staff recommend approval.

As there were no other questions or comments, Chairperson Cunningham asked for a motion and a second for this item.

Moved by Board Member Christiansen, seconded by Board Member Pfannkuch, the Board of Adjustment adopted a resolution to approve the Permitted Conditional Use Permit to allow bars within The Foundry Distillery, subject to meeting all City Code requirements and regulations.

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Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Item 3b – Hy-Vee Fast and Fresh Convenience Store with Gas, 9150 University Avenue – Permitted Conditional Use Permit to operate a convenience store with gas – Hy-Vee, Inc. – PC-003878-2018

Chairperson Cunningham opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on June 4, 2018, in the Des Moines Register.

Chairperson Cunningham then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Celsi, seconded by Board Member Pfannkuch, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Randy Downs, Hy-Vee, 5820 Westown Parkway, presented a map detailing the proposal to develop the lot located at 9150 University Ave as a new format convenience store to include limited groceries, a drive through coffee shop; 7 fuel islands; common drive to be built on the east side, private drive and another portion for Hubbell’s senior housing to the south.

Chairman Cunningham asked if the amendment to the PUD to allow more than 6 fuel pumps was passed by Council on Monday, June 11. Mr. Downs replied that it was. He added that their standard use is 8, however they were only pursuing 7 due to needing space for a stormwater detention basin.

Chairman Cunningham asked if there was still another approval pending with the Plan & Zoning Commission. Mr. Downs affirmed that there was a PUD amendment scheduled to be heard on Monday, June 18.

Chairman Cunningham asked if the applicant would have a concern if the Board of Adjustment approval was conditional to the Plan & Zoning decision. Mr. Downs responded that he would prefer that the Board approve without condition, and they would be required to be compliant by the Plan & Zoning Commission regarding amending the number of fuel pumps allowed in the Greenway PUD.

Hearing no other questions or comments from the audience, Chairman Cunningham closed public hearing.

Kara Tragesser, Development Services Planner, summarized the request to enable a convenience store with gas to be located at this site; adding that amendment approval has passed the 2nd and 3rd readings as requested to allow up to 8 pumps in community commercial zoning district. Staff has published notice for the amendment to the Greenway PUD which specifically only allows 6 pumps. This PUD amendment is scheduled for Monday, June 18 Plan and Zoning Commission and Monday, June 25 for Council. The site plan is under review. She noted that she had a couple calls from neighbors at Greenway Crossing and the Brownstones to the south with concerns regarding traffic at 92nd and 90th Street. Part of Ashworth is closed so there is a lot of traffic now. The traffic study does not show a need for a signal at 90th St.

As there were no other questions or comments, Chairperson Cunningham asked for a motion and a second for this item.

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Moved by Board Member Blaser, seconded by Board Member Pfannkuch, the Board of Adjustment adopted a resolution to approve the Permitted Conditional Use Permit to allow the convenience store with gas, subject to meeting all City Code requirements and regulations.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

There were no staff reports.

Item 6 – Adjournment

Chairperson Cunningham asked for a motion to adjourn the meeting.

Moved by Board Member Anderson. Seconded by Board Member Pfannkuch, the Board of Adjustment meeting adjourned.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

The meeting adjourned at 6:04 p.m.

Thomas M. Cunningham, Chairperson
Board of Adjustment

Recording Secretary