

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION**

Meeting Date: May 26, 2020

Item: Lots 3 & 4 All State Industrial – 1690 and 1730 All State Court – Approval of a Phased Site Plan to allow grading of the site and installation of underground private utilities – Next Phase Development. – SP-004641-2020

Requested Action: Recommend Approval of a Phased Site Plan

Case Advisor: J. Bradley Munford

Applicant's Request: Brad Overturf with Cooper Crawford and Associates, on behalf of the applicant, Next Phase Development is requesting phased approval of a phased site plan to initiate grading and to allow the installation of underground private utilities for approximately 5.331 acres located at 1690 and 1730 All State Court in anticipation of approval of a full site plan in the near future for the construction of 2, two story warehouse buildings (18,225 sf and 25,800 sf respectively) on the site. The applicant is on a tight construction schedule and wishes to complete the infrastructure while some details of the above ground elements are worked out. The applicant will return to the Plan and Zoning Commission and City Council for approval of the full site plan and the above ground elements.

History: This area was originally platted as Industrial Park in 1966. It was replatted in 1968 as Industrial Park Replat and again in 1976 as Industrial Park Plat 1. In 2004 the property was replatted as All-State Industrial Plat 1.

City Council Subcommittee: The Lots 3 & 4 All State Industrial was presented to Development and Planning Subcommittee as an informational item at the March 2, 2020 meeting. The Subcommittee was supportive of the development.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. Staff would note the following:

- **Grading and Site Infrastructure:** The applicant is still working with staff on the design of the proposed warehouse buildings. The applicant is requesting authorization to grade and install underground private utilities while they continue to work to resolve details on the building designs. At a later date, the applicant will return to the Plan and Zoning Commission and City Council for approval of the full site plan which will provide full architectural details of the buildings being built. As a part of this approval, staff recommends a caveat that no foundation work or above ground construction commence until the site plan is approved and all necessary documentation, including final plans, have been submitted to the City.

Staff is comfortable with the applicant proceeding with grading, utility installation and foundations while minor architectural details are finalized.

- **Shared Access:** In 2011 the owner and developer of 1675 All-State Ct. owned both lots 2 and 3 of All-State Industrial Plat 1. The City Council approved a site plan for 1675 All-State Ct. that allowed driveway improvements to be constructed on lot 3. The approval was with the condition that if lot 3 is sold or developed independently the parcels will be re-platted to adjust the common lot line and locate all improvements within one respective lot in accordance with city code. In addition, as part of the re-platting process, the applicant shall execute the appropriate ingress/egress-cross-access agreement, should such be necessary.

The applicant's proposal triggers the 2011 condition of approval. The applicant has worked with the owners of 1675 All-State Ct. and have entered into a cross access agreement that would allow both parties to use the existing drive (see Attachment D). However, the applicant is concerned

about the platting requirement of the condition of approval. Since access is the root intent behind the condition, and both parties have an agreement for access, the applicant believes that the platting requirement is an unnecessary cost. He requests that the City Council to modify the 2011 condition of approval and remove the requirement for platting. Considering access is provided, staff is comfortable with the request.

- **Lot Line Adjustment:** On the site plan, the applicant is proposing to build a building over one of the existing property lines. Per code certain private improvement such as a building is prohibited from being built over a property line. The applicant is proposing to submit a Plat of Survey in the near future to adjust the property line accordingly. Staff recommend a condition of approval that building permits for any part of the structure (including footings and foundations) are not issued until the pursuant Plat of Survey is approved.

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.

Site Plan Findings: This proposed project was distributed to various city departments for review and comment. Based upon that review, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that 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.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare and safety of the community.
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the zoning designation and Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

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 approving the Phased Site Plan to develop 2 warehouse buildings, subject to the applicant meeting all City Code requirements and the following:

1. The applicant agrees that any infrastructure work done to the site prior to the full approval of the site plan which contains all site development details is at their own risk, and that the final site development will need to comply with any changes that are deemed necessary as part of those subsequent approvals. The applicant further acknowledges and agrees that should the continued

review, development and finalization of the site's details warrant changes to the utilities or building design or locations resulting in changes to the grades, or utilities, that the applicant will need to make the necessary changes at their own cost with no compensation from the City; and,

2. The applicant acknowledges that approval of this phased site plan does not allow for any above ground construction of any type and that subsequent site plan approval and submittal of final plans to the City is required before any above ground work can be started.
3. The applicant agrees to obtain all appropriate building permits prior to initiation of any site work
4. The applicant acknowledges that the cross access agreement shall be recorded prior to initiation of any site work.
5. The City Council approving a motion to modify the 2011 condition of approval that removes the requirement to plat the property.
6. The applicant acknowledges and agrees that building permits for any part of the structure (including footings and foundations) are not issued until the pursuant Plat of Survey is approved by the City Council.

Applicant: Next Phase Development
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West Des Moines, Iowa 50265
ReidTamisiea@yahoo.com

Applicant Representative: Cooper Crawford and Associates
Brad Overturf
475 S 50th St Suite 800
West Des Moines, Iowa 50265
Boverturf@Cooper-Crawford.com

Attachments:

Attachment A	-	Plan and Zoning Commission Resolution
Exhibit A	-	Conditions of Approval
Attachment B	-	Location Map
Attachment C	-	Site Plan: Grading, Site Layout, & Utility
Attachment D	-	Cross Agreement

RESOLUTION NO. PZC- 20-023

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE A PHASED SITE PLAN (SP-004641-2020) FOR THE PURPOSE OF GRADING THE SITE AND INSTALLING PRIVATE INFRASTRUCTURE IN ANTICIPATION OF THE DEVELOPMENT OF 2 WAREHOUSE BUILDINGS

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, The Next Phase Development, has requested approval for a Phased Site Plan (SP-004641-2020) for approximately 5.331 acres located at the 1690 and 1730 All State Court, for the purpose of allowing grading and installation of underground private utilities in anticipation of the development of 2 warehouse buildings;

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 May 26, 2020, this Commission held a duly-noticed public meeting to consider the application for a Site Plan;

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, dated May 26, 2020 or as amended orally at the Plan and Zoning Commission hearing of May 26, 2020 are adopted.

SECTION 2. The Phase Site Plan (SP-004641-2020) permit to grade the property and allow installation of underground private utilities for that site located at 1690 and 1730 All State Court is hereby approved by the Plan and Zoning Commission, subject to compliance with all the conditions in the staff report including conditions added at the meeting and attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on May 26, 2020.

Erica Andersen
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 May 26, 2020, by the following vote:

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

ATTEST:

Recording Secretary

EXHIBIT A
CONDITIONS OF APPROVAL

1. The applicant agrees that any infrastructure work done to the site prior to the full approval of the site plan which contains all site development details is at their own risk, and that the final site development will need to comply with any changes that are deemed necessary as part of those subsequent approvals. The applicant further acknowledges and agrees that should the continued review, development and finalization of the site's details warrant changes to the utilities or building design or locations resulting in changes to the grades, or utilities, that the applicant will need to make the necessary changes at their own cost with no compensation from the City; and,
2. The applicant acknowledges that approval of this phased site plan does not allow for any above ground construction of any type and that subsequent site plan approval and submittal of final plans to the City is required before any above ground work can be started.
3. The applicant agrees to obtain all appropriate building permits prior to initiation of any site work
4. The applicant acknowledges that the cross access agreement shall be recorded prior to initiation of any site work.
5. The City Council approving a motion to modify the 2011 condition of approval that removes the requirement to plat the property.
6. The applicant acknowledges and agrees that building permits for any part of the structure (including footings and foundations) are not issued until the pursuant Plat of Survey is approved by the City Council.



Lots 3 & 4 All State Industrial



Prepared By and
 Return to: Michael P. Holzworth, 5835 Grand Avenue, Suite 104, Des Moines, IA 50312; 515-274-0279

CROSS ACCESS EASEMENT

KNOW TO ALL MEN BY THESE PRESENTS:

1. Grant of Easement(s).

The undersigned, JAW Investments, L.L.C. (hereinafter referred to as the "Grantor(s)"), owner(s) and/or developer(s) of Lots 3 in All-State Industrial Plat 1, an official plat in and forming a part of the City of West Des Moines, Polk County, Iowa, hereby grants, establishes and conveys a permanent and perpetual easement to and for the benefit of All-State Investments, L.C., and for the benefit of Lot 2 in All-State Industrial Plat 1, an official plat of the City of West Des Moines. Said easement shall allow the mutual use of current and future access drives and roadways located on the above-listed lots over, under, through and across the real property legally described as:

BEGINNING AT THE NORTHEAST CORNER OF LOT 3 ALL-STATE INDUSTRIAL PLAT 1, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA; THENCE S51°06'14"E, 287.94 FEET ALONG THE EAST LINE OF SAID LOT 3 TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE S47°25'03"W, 45.85 FEET ALONG THE SOUTH LINE OF SAID LOT 3; THENCE N47°31'36"W, 271.06 FEET; THENCE N38°45'37"W, 16.00 FEET TO THE NORTH LINE OF SAID LOT 3 TO A POINT OF CURVATURE OF A 64.50 FEET RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY 25.68 FEET ALONG SAID CURVE, SAID CURVE HAS A CHORD LENGTH OF 25.68 FEET AND A CHORD BEARING OF N50°14'34"E TO THE POINT OF BEGINNING.

2. The undersigned, All-State Investments, L.C. (hereinafter referred to as "Grantor(s)"), is the owner of Lot 2 in All-State Industrial Plat 1, an official plat in and forming a part of the City of West Des Moines, Polk County, Iowa, hereby accepts the below terms and conditions of the Cross Access Easement.

3. Use and Purpose of Easement(s).

This Easement shall be for the purpose of permitting and allowing ingress and egress for parties having any interest whatsoever in the real property described herein, including but not limited to lessee(s), business invitee and employees in any portion of the real property.

The roadway shall be hard surface roadway, as required and approved by the City of West Des Moines and shall be constructed by the Grantee, or its successors in interest or assigns. No structure, obstruction, or building of any kind whatsoever shall be placed upon property that is the subject of this Easement without the express written consent of the City.

4. Maintenance.

The Grantee(s) shall replace, maintain, repair and keep free of obstruction the roadway constructed upon the Easement area, the responsibility and cost of which is more specifically set forth below. The Grantee(s) hereby covenant and agrees not to permit any vehicle parking upon said Easement and to keep the roadway free and clear of snow and other obstructions so as to permit and allow all City services to be provided to the area by the City.

5. Hold Harmless.

The Grantor(s) agrees to indemnify and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Grantor(s) arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

6. Running of Benefits and Burdens

The terms and conditions of this Easement are binding upon the Grantor including, but not limited to, future owners, developers, lessees or occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

7. Jurisdiction and Venue.

The City and the Grantor(s) agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties shall consent to the jurisdiction of Polk County, Iowa.

8. Words and Phrases

Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender, according to the context.

9. Attorney's Fees.

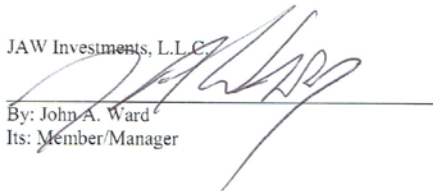
Either party may enforce this instrument by appropriate action, and should they prevail in such litigation they shall recover as part of their costs the reasonable attorney's fees incurred in such litigation.

10. Parties.

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor(s)" shall refer to JAW Investments, L.L.C., their heirs, assigns, successors-in-interest, or lessees, if any.

Dated this 14 day of May, 2020.

JAW Investments, L.L.C.

By: 
Its: Member/Manager

STATE OF IOWA)
)SS
COUNTY OF POLK)

On this 14th day of May, 2020, before me, the undersigned, a Notary Public in and for said County and State personally appeared John A. Ward, to me personally known, who being by me duly sworn, did say that he is Manager/Member of JAW Investments, L.L.C., executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of JAW Investments, L.L.C. by it and by him voluntarily executed.



Scott M Ferguson
Notary Public in and for the State of Iowa

All-State Investments, L.C.

By: Robert Pulver
Its: Member/Manager

STATE OF IOWA)
)SS
COUNTY OF POLK)

On this _____ day of _____, 2020, before me, the undersigned, a Notary Public in and for said County and State personally appeared Robert Pulver, to me personally known, who being by me duly sworn, did say that he is Manager/Member of All-State Investments, L.C., executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of JAW Investments, L.L.C. by it and by him voluntarily executed.

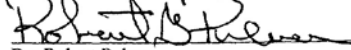
Notary Public in and for the State of Iowa

STATE OF IOWA)
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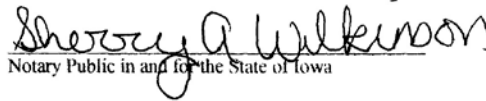
All-State Investments, L.C.



By: Robert Pulver
Its: Member/Manager

STATE OF IOWA)
)SS
COUNTY OF POLK)

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Notary Public in and for the State of Iowa

