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CITY OF FRANKLIN
SPECIAL COMMON COUNCIL MEETING
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA
THURSDAY, SEPTEMBER 25, 2025, AT 7:00 P.M.

- A. Call to Order, Roll Call and Pledge of Allegiance.
- B. Citizen Comment Period.
- C. Reports and Recommendations: Rescind and Amendment to A Resolution Imposing Conditions and Restrictions for the Approval of a Conditional Use for the Franklin High School, an Educational Facility Use, Upon Property Located at 8222 South 51st Street (Tax Key No. 807 9999 001) (Franklin Public Schools, Applicant/Property Owner), in continuation of the process for which a public hearing was held before the Plan Commission on August 21, 2025. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to litigation upon the Conditional Use for the Franklin High School Approval in which the City is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate
- D. Adjournment.

[Note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, contact the City Clerk's office at (414) 425-7500.]

APPROVAL	REQUEST FOR COUNCIL ACTION	MEETING DATE September 25, 2025
REPORTS AND RECOMMENDATIONS	Rescind and Amendment to A Resolution Imposing Conditions and Restrictions for the Approval of a Conditional Use for the Franklin High School, an Educational Facility Use, Upon Property Located at 8222 South 51st Street (Tax Key No. 807 9999 001) (Franklin Public Schools, Applicant/Property Owner), in continuation of the process for which a public hearing was held before the Plan Commission on august 21, 2025. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to litigation upon the Conditional Use for the Franklin High School Approval in which the City is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate	ITEM NUMBER C. Ald. District No. 5

Annexed hereto is the Council Action sheet and documents referenced therein as annexed thereto from the September 16, 2025 Common Council meeting item G.14. Also included is an email from Attorney Chris Smith regarding tennis traffic. No action was taken by the Common Council on that item.

COUNCIL ACTION REQUESTED

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to litigation upon the Conditional Use for the Franklin High School Approval in which the City is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

APPROVAL	REQUEST FOR COUNCIL ACTION	MEETING DATE September 16, 2025
REPORTS AND RECOMMENDATIONS	Reconsideration of and/or Amendment to A Resolution Imposing Conditions and Restrictions for the Approval of a Conditional Use for the Franklin High School, an Educational Facility Use, Upon Property Located at 8222 South 51st Street (Tax Key No. 807 9999 001) (Franklin Public Schools, Applicant/Property Owner). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to litigation upon the Conditional Use for the Franklin High School Approval in which the City is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate	ITEM NUMBER 8.14. Ald. District No. 5

The above-entitled Resolution was adopted by the Common Council at its meeting on September 2, 2025. On September 9, 2025, the City Attorney received a phone call from Attorney Chris R. Smith, stating that he was representing the Franklin Public School District and that there was an issue with regard to the access to High View Drive condition included in the above-entitled Resolution as adopted by the Common Council, and that he would send an email with the position statement therefore. Annexed hereto is a copy of the above-entitled Resolution. Also annexed hereto is the email Attorney Smith sent. The subject remains under review by City staff at the time of this writing.

COUNCIL ACTION REQUESTED

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to litigation upon the Conditional Use for the Franklin High School Approval in which the City is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2025-8372

A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS
FOR THE APPROVAL OF A CONDITIONAL USE FOR THE FRANKLIN HIGH SCHOOL,
AN EDUCATIONAL FACILITY USE, UPON PROPERTY LOCATED
AT 8222 S. 51ST STREET (TKN 807-9999-001)
(FRANKLIN PUBLIC SCHOOLS, APPLICANT/PROPERTY OWNER)

WHEREAS, Franklin Public Schools, having petitioned the City of Franklin for the approval of a Conditional Use within the I - Institutional District under Institutional Use Title "Educational Facility", to operate a high school facility, located at 8222 S. 51st Street, bearing TKN 807-9999-001, more particularly described as follows:

The West 1/2 of the Northeast 1/4 of Section 14, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

EXCEPTING THEREFROM that portion of Land conveyed in instrument recorded on June 06, 1967 in Reel 362, Images 1062-1065 as Document No. 4321782; August 12, 1983, in Reel 1556, Image 914 as Document No. 5642797; August 07, 1986, in Reel 1932, Images 950-951 as Document No. 5947553; and December 01, 2009 as Document No. 09819502.

WHEREAS, such petition having been duly referred to the Plan Commission of the City of Franklin for a public hearing, pursuant to the requirements of §15-9-06E. of the Unified Development Ordinance, and a public hearing having been held before the Plan Commission on the 21st day of August, 2025, and the Plan Commission thereafter having determined to recommend that the proposed Conditional Use be approved, subject to certain conditions, and the Plan Commission further finding that the proposed Conditional Use upon such conditions, pursuant to §15-9-06H of the Unified Development Ordinance, will be in harmony with the purposes of the Unified Development Ordinance and the Comprehensive Master Plan; that it will not have an undue adverse impact upon adjoining property; that it will not interfere with the development of neighboring property; that it will be served adequately by essential public facilities and services; that it will not cause undue traffic congestion; and that it will not result in damage to property of significant importance to nature, history or the like; and

WHEREAS, the Common Council having received such Plan Commission recommendation and also having found that the proposed Conditional Use, subject to conditions, meets the standards set forth under §15-9-06H of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the petition of Franklin Public Schools, for the approval of a Conditional Use for the property particularly described in the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and restrictions:

1. That this Conditional Use is approved only for the use of the subject property by Franklin Public Schools, successors and assigns, as a high school facility, which shall be developed in substantial compliance with, and operated and maintained by Franklin Public Schools, pursuant to the application materials City file-stamped August 11, 2025.

2. That this Conditional Use is only for the use of the property and a full Site Plan Review will need to be approved prior to construction of concurrently proposed building and site modifications.

3. Franklin Public Schools, successors and assigns, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the Franklin Public Schools high school facility, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9-14 thereof and §1-19 of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.

4. The approval granted hereunder is conditional upon Franklin Public Schools and the high school use for the property located at 8222 South 51st Street: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.

5. Tennis court lighting shall be shut off by dusk or 8:00 p.m., with the exception of school sponsored activities or tournaments.

6. All signage shall comply with the requirements of Article 6 of the Unified Development Ordinance and must receive a Sign Permit from the City Development Department prior to installation.

7. This Conditional Use is approving access to High View Drive only for emergency vehicles.

BE IT FURTHER RESOLVED, that in the event Franklin Public Schools, successors or assigns, or any owner of the subject property, does not comply with one or any of the conditions and restrictions of this Conditional Use Resolution, following a ten (10) day notice to cure, and failure to comply within such time period, the Common Council, upon notice and hearing, may revoke the Conditional Use permission granted under this Resolution.

BE IT FURTHER RESOLVED, that any violation of any term, condition or restriction of this Resolution is hereby deemed to be, and therefore shall be, a violation of the Unified Development Ordinance, and pursuant to §15-9-14 thereof and §1-19 of the Municipal Code, the penalty for such violation shall be a forfeiture of no more than \$2,500.00, or such other maximum amount and together with such other costs and terms as may be specified therein from time to time. Each day that such violation continues shall be a separate violation. Failure of the City to enforce any such violation shall not be a waiver of that or any other violation.

BE IT FURTHER RESOLVED, that this Resolution shall be construed to be such Conditional Use Permit as is contemplated by §15-9-06 of the Unified Development Ordinance.

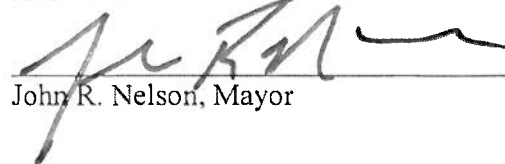
BE IT FURTHER RESOLVED, pursuant to §15-9-06J. of the Unified Development Ordinance, that the Conditional Use permission granted under this Resolution shall be null and void upon the expiration of two years from the date of adoption of this Resolution, unless the Conditional Use has been established by way of the issuance of an occupancy permit for such use.

BE IT FINALLY RESOLVED, that the City Clerk be and is hereby directed to obtain the recording of a certified copy of this Resolution in the Office of the Register of Deeds for Milwaukee County, Wisconsin.

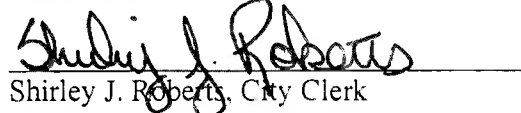
Introduced at a regular meeting of the Common Council of the City of Franklin this 2nd day of September, 2025.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 2nd day of September, 2025.

APPROVED:


John R. Nelson, Mayor

ATTEST:


Shirley J. Roberts, City Clerk

AYES 4 NOES 2 (Ald. Craig and Ald. Eichmann) ABSENT 0

From: Chris R. Smith Christopher.Smith@vonbriesen.com
Subject: School District CUP
Date: September 10, 2025 at 3:16 PM
To: Jesse A. Wesolowski jweslaw@aol.com

Jesse:

Following up on our conversation, there are two conditions that the City has imposed or may impose to which the School District objects: (1) The limitation of access to only allow emergency response vehicles on High View Dr and (2) any setback greater than 60 feet. Both conditions violate Wis. Stat. 62.23(7)(de)2.a.

As you are aware, state law requires a local government to grant a conditional use permit if the applicant agrees to meet all conditions and requirements specified in the City's ordinance or those imposed by the city zoning board. If a condition is imposed by the latter, it must be related to the purpose of the ordinance and supported by substantial evidence.

The first condition, limiting access on High View Dr., does not seem to be part of the resolution in the packet and instead was added by the Common Council at the September 2, 2025 meeting. I can find nothing in the UDO that would require this condition and a review of the video of the common council discussion clearly shows that this condition was not based upon substantial evidence. Instead, it appears that the condition was based on neighbor complaints, which is exactly the type of condition (or denial) that the legislature intended to prohibit when this law was adopted. It should be noted that the School District has proposed and will agree to a substantial limitation as to access on High View Dr., as discussed at the meeting (i.e. gate access only). Please let me know if there is a path to reconsideration of this condition. If there is not, the District's only remaining option will be to apply for judicial review.

The second condition relates to the 150' setback that the plan commission may impose as part of the NRSE process. The City's NRSE processes are subject to the same parameters as a conditional use under state law. Wis. Stat. 62.23(7)(de)1.a.

("Conditional use" means a use allowed under a conditional use permit, **special exception, or other special zoning permission issued by a city**, but does not include a variance.) As you know, the School District is agreeing to a 60' setback, which is already beyond what the UDO requires. Because the same legal analysis applies to this issue, I come to the same conclusion. The City cannot arbitrarily select the distance of this setback without violating the statute. My request is that you advise the plan commission and common council of this. If the City imposes a setback greater than 60', the School District will have no choice but to appeal the decision to circuit court, and reserves the right to request that the court order the School District's CUP application be granted in accordance with the UDO and state statutes, which may differ from the 60' that the District has proposed.

Thanks,

Chris R. Smith | Attorney
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, WI 53202

Direct: 414-287-1499

Fax: 414-238-6441

christopher.smith@vonbriesen.com | [vcard](#) | [bio](#)
vonbriesen.com

Shirley Roberts

From: Jesse A. Wesolowski <jweslaw@aol.com>
Sent: Tuesday, September 16, 2025 5:15 PM
To: Shirley Roberts
Subject: Fwd: additional question; Re: Franklin Conditional Use Permit; questions

Begin forwarded message:

From: "Chris R. Smith" <christopher.smith@vonbriesen.com>
Subject: Fwd: Re: additional question; Re: Franklin Conditional Use Permit; questions
Date: September 16, 2025 at 5:12:00 PM CDT
To: "Jesse A. Wesolowski" <jweslaw@aol.com>

Sent from my iPhone

Begin forwarded message:

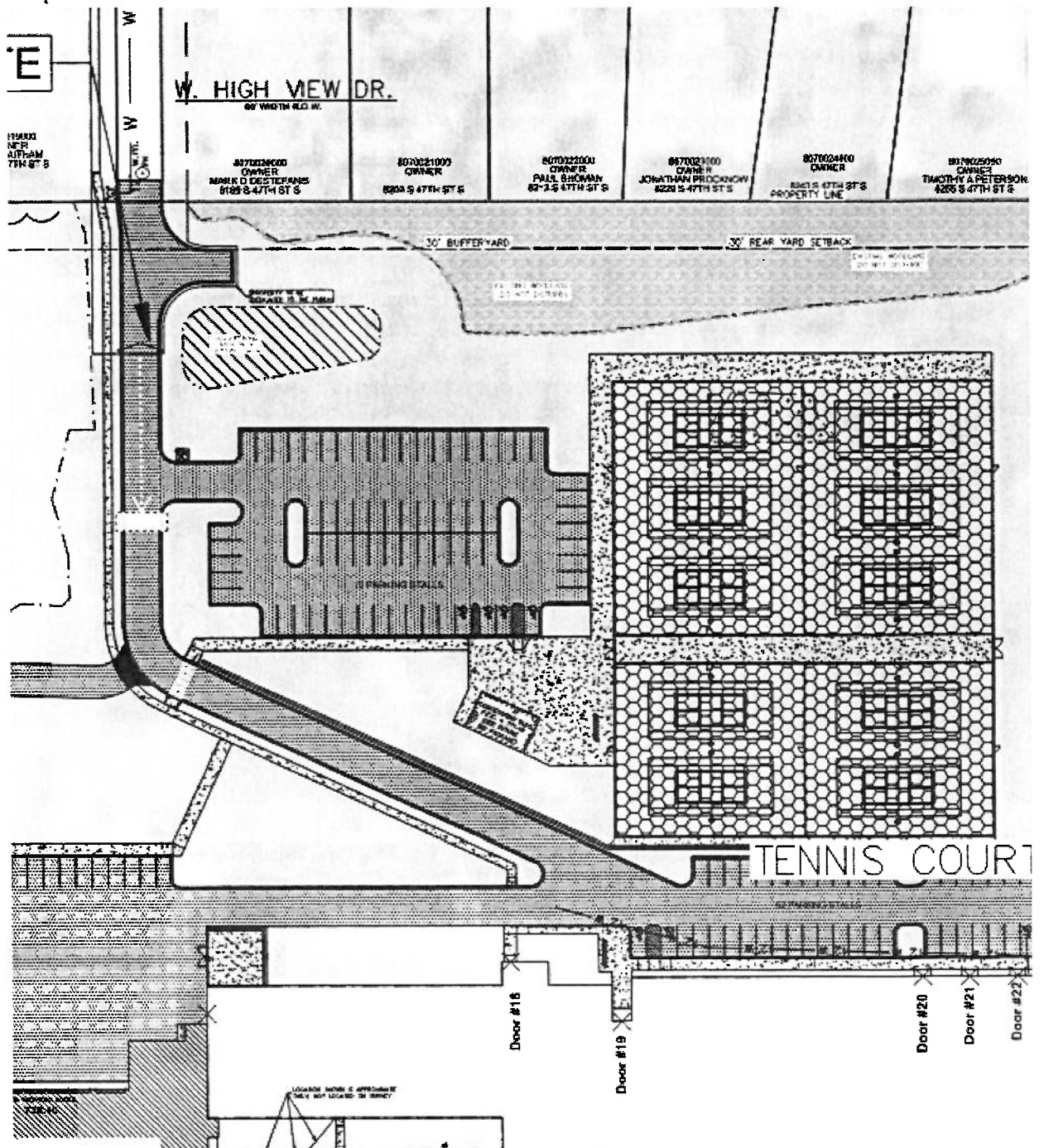
From: Michael Hacker <m.hacker@cadence-llc.com>
Date: September 16, 2025 at 5:02:35 PM CDT
To: "Chris R. Smith" <christopher.smith@vonbriesen.com>
Cc: Andy Chromy <andy.chromy@franklin.k12.wi.us>, Annalee Bennin <annalee.bennin@franklin.k12.wi.us>, "Sam A. Schultz" <samuel.schultz@vonbriesen.com>, "Steven L. Nelson" <steven.nelson@vonbriesen.com>
Subject: [EXTERNAL] Re: additional question; Re: Franklin Conditional Use Permit; questions

Chris,

Please see below:

- **Tennis Traffic:**
 - **Estimated Tennis Volume:** Please note that the boys and girls teams plan on alternating seasons (spring and fall).
 - Matches: 30 / year (15 Spring + 15 fall) @ 50-75 total spectators.
 - Invitationals: 6 / year (3 spring + 3 fall) @ 50-100 during day events, 100-200 for weekend events
 - Note that the estimated total spectator traffic will flow throughout the multi-hour event. As for any large event on campus, the district will work closely to schedule, manage, and direct traffic and parking.

- **Tennis Vehicle Access:** The intent would be to allow visiting bus, and spectator (home and visitor) vehicle access, during tennis events. Providing a code, or key cards, would not be an appropriate control measure for these users. The district would plan to open and close this gate before and after these events. This gate would be monitored by the district's event supervisor, and closed at the end of the event.
- **Alternative Gate Access Location:** Yes, during the 9/2/2025 Common Council meeting discussion, the District offered to relocate the gate beyond the parking lot - still control thru traffic, but allowing free access to the tennis courts. See the diagram below.
- **Vehicle Access Data:** The district would work closely with the City to respond to any concerns site access. To the extend legally possible, and within Board of Education policy, the district is willing to collaborate on reviewing gate access data.



Michael A. Hacker, AIA, LEED AP
Principal | Educator + Advisor

Cadence Consulting, LLC
cadence-llc.com
c. (414) 610-5470

From: Chris R. Smith <christopher.smith@vonbriesen.com>
Sent: Tuesday, September 16, 2025 1:53 PM
To: Michael Hacker <m.hacker@cadence-llc.com>
Cc: Andy Chromy <andy.chromy@franklin.k12.wi.us>; Annalee Bennin <annalee.bennin@franklin.k12.wi.us>; Sam A. Schultz <samuel.schultz@vonbriesen.com>; Steven L. Nelson <steven.nelson@vonbriesen.com>
Subject: FW: additional question; Re: Franklin Conditional Use Permit; questions

Mike:

One additional question.

Thanks,

Chris R. Smith | von Briesen & Roper, s.c.
Direct: 414-287-1499 | christopher.smith@vonbriesen.com

From: Jesse A. Wesolowski <jweslaw@aol.com>
Sent: Tuesday, September 16, 2025 1:44 PM
To: Chris R. Smith <christopher.smith@vonbriesen.com>
Subject: [EXTERNAL] additional question; Re: Franklin Conditional Use Permit; questions

And, recall was mentioned at the 9/2/25 meeting that the District would be willing to move the access gate further in on the District property. How much further in (in feet)? Thanks.

On Sep 16, 2025, at 11:14 AM, Jesse A. Wesolowski <jweslaw@aol.com> wrote:

Below are some quotes from the District's Cover Letter to the Council for the 9/2/25 meeting. What is the amount of traffic on a tennis match day? Will those tennis attendees only have security card access? If not, how will attendance through the High View Drive access be controlled for tennis days? Will the District provide monitor usage information to the City upon request? Thanks.

"The proposed gate at High View Drive would be access-controlled within the District's security card access/ automation system. ***

A traffic study has been considered, however, with controlled access and a very limited number of parking spots on this side of the school, we know the impact is approximately 70 employee vehicles for 15

minutes twice a day and ***some additional traffic on tennis match days.*** ***

The district will continue to monitor usage to ensure this is followed."

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