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Date..... March 26, 2007

WHEREAS, on February 26, 2007, by Roll Call No. 07-346, it was duly resolved by the City Council, that the City Council consider a proposal from Rice Development Partners, L.L.C., represented by Adam Van Dyke (Agent), to rezone certain property located in the vicinity of 3001 Beaver Avenue it is purchasing from the Des Moines Public Schools, from the "R1-60" One-Family Low-Density Residential District classification to the "PUD" Planned Unit Development District classification, and to approve the "PUD" Conceptual Plan for such property, and that such proposal be set down for hearing on March 26, 2007, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on March 15, 2007, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the property located in the vicinity of 3001 Beaver Avenue, more fully described as follows (the "Property"):

The West 5 acres of Lot 5 of the Official Plat of the South 1/2 of the Northwest 1/4 of Section 29, Township 79 North, Range 24 West of the 5th P.M.; and, Lot C, Ashby Manor, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "R1-60" One-Family Low-Density Residential District classification to the "PUD" Planned Unit Development District classification; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council;

WHEREAS, the Plan and Zoning Commission has not recommended that the proposed rezoning and "PUD" Conceptual Plan be approved, nor has it affirmatively recommended that the proposed rezoning and "PUD" Conceptual Plan be denied, the Commission's actions being more specifically described in the accompanying communication from the Planning Administrator; and,

WHEREAS, the Community Development Director recommends that the proposed rezoning and "PUD" Conceptual Plan be approved, subject to the Plan being first amended to satisfy the conditions identified below; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

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1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to said proposed rezoning and "PUD" Conceptual Plan are hereby overruled and the hearing is closed.

2. The proposed rezoning and "PUD" Conceptual Plan are hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan as heretofore amended, subject to the conditions identified below.

3. The "PUD" Conceptual Plan for the Property described above, which is on file in the Community Development Department, is hereby approved, subject to the plan being first amended to satisfy the following conditions, and subject to the Community Development Director finding that such conditions have been satisfied by the amendments to the plan:

- a) The Final Development Plan shall be presented to the City Council for review and approval.
- b) All building architecture, including building footprints and materials shall be subject to review and approval of the final development plan by the City Council.
- c) Stormwater from the development shall be discharged to the existing storm sewer within 40th Place right-of-way through an 8" pipe under Wallace Lane.
- d) The diagonal sanitary sewer across the southwest portion of the site shall be televised by the developer after construction on site to document that no damage has occurred during construction.
- e) A note shall be added to the plan stating that the 6'-tall screen fence at the east end of the east/west access drive across the site shall be 100% opaque and constructed with wood materials.
- f) A note shall be placed on Sheet 4 identifying brick as the predominant siding on the 2-story mixed-use structure oriented toward Adams Avenue.
- g) The bases of all monument signs will be constructed with masonry materials that match the masonry materials used on the mixed-use structures.
- h) Lighting for monument signs shall be indirect or downward (not internally illuminated) and shall not operate between the hours of 10:00 PM and 6:00 AM.

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- i) A note shall be added to the plans stating that all site lighting shall be directed downward and shielded from adjoining properties and that lighting for the pedestrian areas shall be provided on poles with a maximum height of 15'.
- j) The single-family semi-detached structures shall be 1 to 1-½ stories and sided predominantly with brick.
- k) Commercial uses on the subject property shall be limited uses permitted in the "C-1" Neighborhood Retail Commercial District, except gas stations, boarding houses, shelters for the homeless, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity. Package goods stores for the sale of alcoholic beverages will not be permitted, except for the sale of alcohol specifically related to the wine industry. Restaurant uses will be limited to no more than 50% of the retail square footage.

(Council Communication No. 07-)

MOVED by _____ to adopt and approve the rezoning and Conceptual Plan, subject to final passage of the rezoning ordinance.

NOTE: Six affirmative votes are required to approve the rezoning and "PUD" Conceptual Plan because of a sufficient protest by the adjoining property owners.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
 Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

.....
 Mayor

CERTIFICATE

I, DIANE RAUH, 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.

 City Clerk