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Date..... May 10, 2010

WHEREAS, on April 12, 2010 by Roll Call No. 10-506, it was duly resolved by the City Council that the City Council consider a proposal from Foods, Inc. to rezone certain property located in the vicinity of 3401 and 3407 Ingersoll Avenue, from the NPC District classification to the PUD Planned Unit Development District classification, and that such proposal be set down for hearing on April 26, 2010, 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 April 15, 2010, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, on April 26, 2010 by Roll Call No. 10-645, the City Council continued the public hearing to 5:00 p.m. at the May 10, 2010 City Council meeting at City Hall and referred the matter to the City Manager to arrange a meeting with City staff, Neighborhood Associations, Dahls, Ingersoll Business Association and Restoration Ingersoll to work toward a resolution of issues concerning the application; and,

WHEREAS, the Legal Department has prepared an amended to the Zoning Ordinance of the City of Des Moines to rezone the property located in the vicinity of 3401 and 3407 Ingersoll Avenue, more fully described as follows (the "Property"):

Land zoned PUD by Ordinance Number 14,744 dated February 11, 2008:

Lots 9, 10 and 11 Crescent Place, an Official Plat; and Lots 16, 17, 18 & 19, Stratford, an Official Plat (Except a portion of Lot 19 beginning at the NW corner of said Lot 19, thence S89°20'55"E, 79.89 feet along the North line of said Lot 19 to a point, thence S89°27'48"W, 69.88 feet to a point; thence S45°24'33"W, 14.06 feet to a point on the West line of said Lot 19; thence N00°00'03"W, 20.04 feet along said West line to the Point of Beginning), all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Land to be rezoned from NPC to PUD and added to the above PUD (ordinance number 14744):

Lots 12 & 13, Crescent Place, an Official Plat; (Except a portion of Lot 12, beginning at the Southeast corner of said Lot 12: thence North 89 degrees, 18 minutes, 28 seconds West (all bearings referenced to Grid North Iowa State Plane Coordinate System South Zone) 5.42 feet along the South line of said Lot 12; thence North 11 degrees, 29 minutes, 32 seconds East, 27.72 feet to the East line of said Lot 12; thence South 00 degrees, 13 minute, 14 seconds West, 27.23 feet along said East line to the Point of Beginning), , AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN POLK COUNTY, IOWA.

from the NPC District classification to the PUD Planned Unit Development District classification; and

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WHEREAS, the Plan and Zoning commission has recommended that the proposed rezoning and PUD conceptual plan be approved, subject to the conditions identified in the attached letter from the Planning Administrator; 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.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the 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, 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:

1. Provision of bike racks near the entrance of the bank.
2. Provision of solid steel gate for any trash enclosure.
3. Restriction of the convenience store and carwash hours of operation from 6:00 A.M. to 11:00 P.M.
4. Use of 60-degree parking stalls where angled parking is designated. Existing parking lot islands where 60-degree parking is proposed shall be modified to accommodate this configuration to the satisfaction of the Community Development Director.
5. Provision of a note that states parking shall be provided for all employees on site.
6. Parapet walls shall have a finished appearance on all sides as approved by the Community Development Director.
7. Provision of functional windows on the south façade of the convenience store to the satisfaction of the Community Development Director.
8. Prohibition of signage on the north façade of the carwash building.
9. Provision of ornamental fencing around the perimeter of the convenience store site along Ingersoll Avenue and 34<sup>th</sup> Street.
10. Provision of signage and painted pavement markings identifying the 34<sup>th</sup> Street drive as "entrance only" per the direction of the City Traffic Engineer.

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11. Submission of written certification from the owner's lighting consultant that all site lighting is installed in accordance with the approved lighting plan and does not exceed 1 foot candle at the property lines prior to issuance of a Certificate of Zoning Compliance. The applicant shall agree to modify all existing and proposed on-site lighting to address off-site lighting impacts to the satisfaction of the Community Development Director.
12. The architecture of the bank shall be differentiated from the look of the convenience store to the satisfaction of the Community Development Director.
13. Evergreen landscaping shall be provided along the 34<sup>th</sup> Street property line with an installed height of 6 to 8 feet and additional plantings shall be provided adjoining the existing truck loading dock to the satisfaction of the Community Development Director.
14. The main entrance drive from Ingersoll Avenue should continue to the intersection with the east-west interior drive, with no direct access to the convenience store per the recommendation of the City Traffic Engineer.
15. The interior intersection of the north-south and east-west drives should have stop signs placed on the east and west legs per the recommendation of the City Traffic Engineer.
16. Both the north-south and east-west pedestrian walkways should provide a continuation of the color and texture of the walkways where they cross vehicle drives, to accentuate the pedestrian path.
17. A more pronounced curb return shall be provided along the north side of the grocery store loading dock driveway to the satisfaction of the City Engineer to discourage northbound turns for vehicles existing the site.

In addition, the City will post "NO TRUCKS" signs on Woodland Avenue at 31<sup>st</sup> Street and 35<sup>th</sup> Street. The City will also work with Dahl's and the neighborhood on some traffic calming features on 34<sup>th</sup> Street, if desired.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**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.

MOTION CARRIED APPROVED

\_\_\_\_\_ Mayor

\_\_\_\_\_ City Clerk

Exhibit 1 4-29-10 meeting minutes

Exhibit 2 5-4-10 meeting minutes

Exhibit 3 4-1-10 P&Z minutes

Exhibit 4 1-7-08 P&Z minutes