

Date..... July 14, 2008

WHEREAS, on June 9, 2008, by Roll Call No. 08-993, it was duly resolved by the City Council, that the City Council consider a proposal from Central Iowa Developers, L.C., represented by William Kline, Managing Member, to rezone certain property it owns in the vicinity of 5100 NE 38th Avenue from the "A-1" Agricultural District classification to the "PUD" Planned Unit Development District classification, and to approve the proposed "PUD" Conceptual Plan for such property, and that such proposal be set down for hearing on July 14, 2008, 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 June 12, 2008, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, on June 23, 2008, by Roll Call No. 08-1128, the public hearing on the proposed rezoning was continued until July 14, 2008, in light of the temporary evacuation of City Hall and the relocation of the hearing to temporary facilities in the Central Library Building and the City Council's desire to continue the hearing until the Council and the public could give a more thorough consideration of the matter; 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 5100 NE 38th Avenue, more fully described as follows (the "Property"):

A parcel of land in the South 1/2 of the Southeast 1/4 of Section 22, Township 79 North, Range 23 West of the 5th P.M., City of Des Moines, Polk County, Iowa which is more particularly described as follows:

Commencing as a point of reference at the SW corner of the SE 1/4 of the SE 1/4 of said Section 22, thence N00°27'04"W, 33.00 feet to a point on the North right-of-way line of NE 38th Avenue, said point being the Point of Beginning; thence N89°35'06"W, 56.92 feet along said North right-of-way line to a point; thence N00°24'35"E, 1309.70 feet to a point on the North line of the S 1/2 of the SE 1/4 of said Section 22; thence N89°41'50"E, 981.47 feet along said North line to a point on the West right-of-way line of NE 55th Way; thence southerly along a curve to the right having a radius of 1112.90 feet, a chord bearing of S06°29'01"E, an arc length of 262.57 feet along said West right-of-way line to a point; thence S04°55'27"E, 152.10 feet along said West right-of-way line to a point; thence S25°00'57"E, 169.80 feet along said West right-of-way line to a point; thence S64°28'27"E, 234.40 feet along said West right-of-way line to a point on the West right-of-way line of NE 56th Street; thence S00°16'33"W, 251.14 feet along said West right-of-way line to a point; thence S07°52'14"W, 75.66 feet along said West right-of-way line to a point; thence S00°16'33"W, 228.80 feet along said West right-of-way line to a point; thence

( continued )

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S44°25'25"W, 93.13 feet along said West right-of-way line to a point on the North right-of-way line of NE 38th Ave; thence S88°40'58"W, 1182.33 feet along said North right-of-way line to the Point of Beginning and containing 35.038 acres, more or less, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "A-1" Agricultural District classification to the "PUD" Planned Unit Development District classification; and,

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 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, 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. Addition of a note to the plan prohibiting the following "C-1" District uses from Parcel D.
    - 1) Gas stations/ convenience stores.
    - 2) Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
    - 3) Package goods stores for the sale of alcoholic beverages.
    - 4) Pawn shops.

( continued )

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- B. Replacement of notes pertaining to the “Low/Medium Density Residential” and “Medium Density Residential” bulk standards and permitted uses with a note that states, "Density ranges are provided but the design, building placement and overall density will be determined by future Concept Plan amendments.”
- C. Provision of a temporary turnaround for emergency apparatus on the north end of the north/south streets.
- D. Provision of a trip generation analysis by the developer prior to any preliminary subdivision plat approval. Contribution to necessary improvements of NE 38th Avenue as determined necessary by the analysis, with such contribution to be determined at the final subdivision plat approval stage.
- E. Addition of a note requiring submission of a tree preservation and mitigation plan locating all trees greater than 6 inches in diameter on the site for review and approval by City staff at the time of platting and prior to the commencement of any tree removal, grading or construction activity.
- F. Provision of a minimum of 2 overstory trees, 2 evergreen trees, 6 understory trees and 8 shrubs for every 100 lineal foot of frontage in the NE 38th Avenue landscape buffer.
- G. Addition of notes discussing the feasibility of providing sanitary and storm water facilities in the development to the satisfaction of the City Engineer.
- H. Identification of approximate location of storm water management facilities to the satisfaction of the City Engineer.
- I. Identification of approximate locations of any existing easements and all proposed easements to the satisfaction of the City Engineer.
- J. Building materials and roof design for outbuildings and dumpster enclosures shall match principle building materials and include architectural detailing on all sides viewable from public streets.
- K. Outbuildings associated with multiple-family residential developments and dumpster enclosures are prohibited from fronting NE 38th Avenue or NE 56th Street.
- L. Parcel D shall be shifted to a location approximately 250’ north of the NE 38th Avenue and NE 56th Street intersection;
- M. Transition of density from existing and proposed low density residential along the west and south boundaries.

( continued)

★ **Roll Call Number**

Agenda Item Number

62B

Date July 14, 2008

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

FORM APPROVED:

*Roger K Brown*

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\REZONING\5100 NE 38th.doc

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.

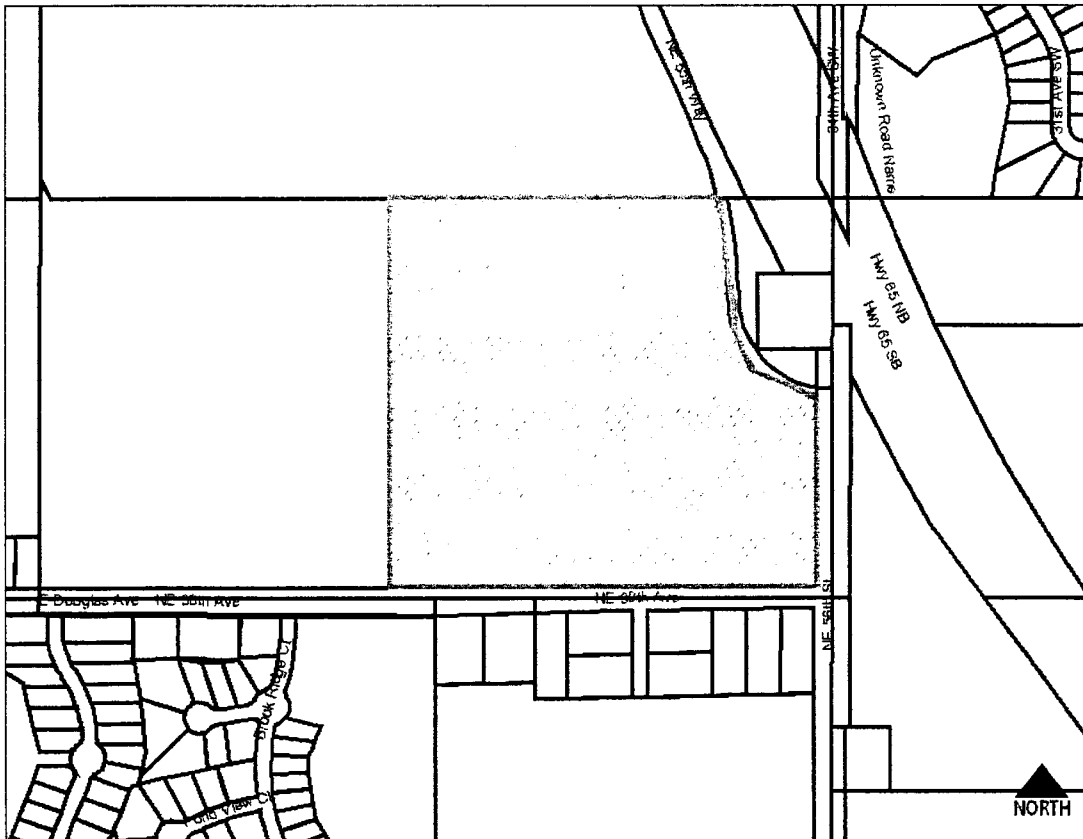
City Clerk

62B

Request from Central Iowa Developers, L.C. (owner) represented by William Kline (officer) to rezone property located at 5100 NE 38 <sup>th</sup> Avenue		File #		
		ZON2008-00020		
<b>Description of Action</b>	Rezone property from "A-1" Agricultural District to "PUD" Planned Unit Development to allow for development of approximately 35 acres with 1.5 acres designated for commercial development, approximately 15 acres of medium-density residential with a maximum density of 17 units per acre, approximately 10 acres of medium-density residential with a maximum density of 12 units per acre, and approximately 8.5 acres of low/medium-residential with a maximum of 8 units per acre.			
<b>2020 Community Character Plan</b>	Not Designated			
<b>Horizon 2025 Transportation Plan</b>	NE 56 <sup>th</sup> Street from Jennifer Drive (Pleasant Hill) to 8 <sup>th</sup> Street SW (Altoona) to widen from 2 lane undivided to 3 lane undivided			
<b>Current Zoning District</b>	"A-1" Agricultural District			
<b>Proposed Zoning District</b>	"PUD" Planned Unit Development			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	5	8	0	<20%
<b>Plan and Zoning Commission Action</b>	Approval	11-0	Required 6/7 Vote of the City Council	
	Denial		Yes	No
				X

Central Iowa Developers LC - 5100 NE 38th Avenue

ZON2008-00020



Item 2008 00020

Date 5/6/08

I  (am)  (am not) in favor of the request. <sup>PVD</sup>

62B

**RECEIVED**  
MAY 08 2008  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name William F. Kline

Signature [Handwritten Signature]

Address 3501 Westown Pkwy, WDM

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUBJECT PROPERTY & ADJACENT PROPERTIES**

Item 2008 00020

Date 5-5-08

I  (am)  (am not) in favor of the request. <sup>PVD</sup>

**RECEIVED**  
(Circle One)  
MAY 08 2008  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Peter T Carr

Signature Peter T. Carr

Address 3751 Brook Ridge Ct #302

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2008 00020

Date 5-6-08

I  (am) <sup>PVD</sup> (am not) in favor of the request.

**RECEIVED**

MAY 08 2008

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Print Name ERVIN WAGNER

Signature [Handwritten Signature]

Address 3725 N.E. 56<sup>th</sup> St

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2008 00020

Date 5-4-8

I  (am) <sup>PVD</sup> (am not) in favor of the request.

(Circle One)

**RECEIVED**

MAY 08 2008

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Print Name Ashley E. Clark

Signature Ashley E. Clark

Address 3701 Brook Ridge Ct #701

DSM, 50317

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2008 00020

Date 5/6/08

*PVO*

(am) (am not) in favor of the request.

**RECEIVED**  
(Circle one)  
**MAY 08 2008**  
**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Print Name Linda Grathwohl

Signature Linda Grathwohl

Address 3701 Brook Ridge Ct. Unit 10

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Item 2008 00020

Date 5-5-08

I (am)  (am not) in favor of the request.

**RECEIVED**  
MAY 08 2008  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Melissa Bencke  
Signature Melissa Bencke  
Address 3701 Brook Ridge Ct #50

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2008 00020

Date 5/3/08

I (am)  (am not) in favor of the request.

(Circle One)  
**RECEIVED**  
MAY 08 2008  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Lindsay Kerr  
Signature [Signature]  
Address 3701 Brook Ridge Ct #802

Reason for opposing or approving this request may be listed below:

We don't need any more townhomes  
or new single family homes  
in this housing market!

Item 2008 00020

Date 5.4.08

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

MAY 13 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Jennifer Johnson

Signature Jennifer Johnson

Address Brook Ridge Ct.

Reason for opposing or approving this request may be listed below:

I am opposed to any commercial development as everything a person needs is within 5 minutes of this location. I prefer no more houses go up but would rather have that than any ~~businesses~~ businesses - I don't understand why every bit of land has to be used up for either houses or businesses. Leave it a cornfield.

Item 2008 00020

Date May 8, 2008

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

MAY 19 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Katherine J. Lincoln

Signature Katherine J. Lincoln

Address 3701 Brook Ridge Ct. #407

Reason for opposing or approving this request may be listed below:

I oppose this request for the same reasons that I opposed the last zoning request for the lot West to this proposal. Now however, my reasons include more than aesthetics. I walk Brook Run to the south and west of my town home regularly. There are literally dozens and dozens of properties for sale - some that have been for over a year. Certainly CID are aware of the current housing market; one that clearly does not support the building of a "Brook Run North" ... which would again, leave dozens and dozens of properties unsold.

Item 2008 00020

Date 5-10-08

I (am) (am not) in favor of the request.

(Circle One)

**RECEIVED** ✓

MAY 13 2008

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Print Name JOE KONRADY

Signature Joe Konrady

Address 3701 Brook Ridge

Reason for opposing or approving this request may be listed below:

*I live in the new development across the street. Is it necessary to continue to forever ruin some of the most productive farmland in the world? Do you have a conscience at all? We do not need more retail & cheap housing thrown up. It is more difficult but fine ways to redevelop within the city & save the farmland that future generations will need.*

Item 2008 00020

Date 5-17-2008

I (am) (am not) in favor of the request.

**RECEIVED**

MAY 20 2008

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Print Name Wayne Stofferahn  
3701 Brook Ridge Ct Unit 305  
Des Moines, IA 50317-4944

Signature Wayne Stofferahn

Address Wayne Stofferahn

Reason for opposing or approving this request may be listed below:

*Unnecessary in current economic situation with numerous houses for sale - Against Tax Abatement - Cost of support services to great Increased Traffic on unimproved Road Douglas Avenue*

Item 2008 00020 Date 5/8/08

I (am)  (am not) in favor of the request.

(Circle One)

**RECEIVED**

Print Name Adrian Wallace

Signature Adrian Wallace

MAY 16 2008

Address 3701 Brook Ridge Ct #10

Des Moines 503

Reason for opposing this request may be listed below:  
**COMMUNITY DEVELOPMENT DEPARTMENT**

How will I ever sell my condo with  
these new ones having 5 year tax  
abatements?

Item 2008 00020 Date 5/12/08

I (am)  (am not) in favor of the request.

(Circle One)

**RECEIVED**

Print Name Grace J Peterson

Signature Grace J Peterson

MAY 16 2008

Address 3701 Brook Ridge Ct #30

Reason for opposing this request may be listed below:  
**COMMUNITY DEVELOPMENT DEPARTMENT**

① Increased traffic  
② Lack of view



