

Date..... November 19, 2007

WHEREAS, on November 5, 2007, by Roll Call No. 07-2121, it was duly resolved by the City Council, that the City Council consider a proposal from A&C Properties, represented by Kermit Anderson (officer) to rezone certain property it is purchasing in the vicinity of 4444 Douglas Avenue from the "R1-60" One-Family Low-Density Residential District and the "C-2" General Retail and Highway Oriented Commercial 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 November 19, 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 November 8, 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 4444 Douglas Avenue, more fully described as follows (the "Property"):

THAT PART OF PHILPOTT ACRES, AN OFFICIAL PLAT INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF LOTS 2 & 3 IN SAID PHILPOTT ACRES, COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE N89°54'55"W, 256.59 FEET ALONG THE SOUTH LINE OF SAID LOT 3 TO THE POINT OF BEGINNING; THENCE N89°54'55"W, 141.97 FEET ALONG THE SOUTH LINE OF SAID LOT 3 TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE 00°14'57"E, 19.05 FEET ALONG THE WEST LINE OF SAID LOTS 2 & 3 TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE N89°52'40"E, 149.80 FEET ALONG THE NORTH LINE OF SAID LOT 2; THENCE S00°14'57"W, 25.0 FEET; THENCE N89°52'40"E, 51.31 FEET; THENCE S00°34'37"W, 37.62 FEET; THENCE S89°50'27"W, 13.42 FEET; THENCE S00°19'08"W, 21.44 FEET; THENCE N89°46'11"W, 45.92 FEET; THENCE S00°01'33"W, 115.82 FEET TO THE POINT OF BEGINNING; AND, THE SOUTH 183 FEET OF LOT 7; LOT 8 EXCEPT THE EAST 9 FEET OF THE NORTH 147.25 FEET; ALL OF LOTS 9, 10, 16, AND 17; AND THE EAST 85 FEET OF LOT 15.

from the "R1-60" One-Family Low-Density Residential District and the "C-2" General Retail and Highway Oriented Commercial 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 set forth below; and,

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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 statement that a tree survey and protection/mitigation plan is required with any Development Plan submitted for review.
- b. Addition of a statement that there shall be no grading or tree removal on the subject property prior to approval of a Development Plan.
- c. Designate approximate location(s) of above and below ground storm water detention on the Site Plan.
- d. Addition of information regarding sanitary sewer service provision to the project showing projected locations of connections.
- e. Addition of pedestrian access route from Euclid Avenue along the east side of the store.
- f. Revision of the list of permitted uses to only allow the supermarket use; a communications tower with antennas and ground equipment; and "C-1" District permitted uses.
- g. Revision of the architecture of the building to include more canopies, windows, special lighting, more decorative and articulated cornice treatment on the south and west facades to the satisfaction of the Community Development Director.

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- h. Remove the allowance of the pylon freestanding signs and replace them with monument type sign designs with materials that match the masonry materials of the building.
- i. Provision of a seat wall within the setback area along Euclid Avenue consisting of materials to match the masonry materials of the building.
- j. Addition of requirements to the communication tower and ground equipment that the tower shall be of a galvanized finish and be no greater than 125 feet in height. Equipment buildings shall be constructed of masonry materials to match the supermarket. Any fencing shall be black coated open-type fencing such as wrought iron or tubular metal.
- k. Provision of a lighting plan that includes locations and typical designs of lighting for the site. The lighting shall be pedestrian in scale where it adjoins residential development and along designated pedestrian routes, with pole lights not to exceed 20' in height and pedestrian scale lighting not to exceed 15' in height.
- l. Addition of a statement that installation of the traffic signal at the intersection of the west driveway entrance with Douglas Avenue shall be installed by the future occupant in conjunction with the development.
- m. Addition of a statement that Douglas Avenue shall be widened by the future occupant in conjunction with the development to provide left-turn lanes for eastbound and westbound traffic at the signalized access location at the west drive way entrance.
- n. Addition of truck route circulation to the site plan.
- o. Access from the proposed Hy-Vee parking lot east through property owned by Beaverdale Boys would be prohibited unless the then two (2) property owners agree to said access.
- p. Applicant continue to work with the neighbors, Beaverdale Neighborhood Association and the Main Street Initiative to resolve outstanding issues prior to submission of the Development Plan.
- q. No above ground storm water detention except in parking lots, on the building roof or other sustainable methods.
- r. Permeable pavement be explored.
- s. Existing trees shall be preserved as feasible.
- t. Addition of a note prohibiting delivery truck traffic on Euclid Avenue. Signage to be provided on site accordingly.

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MOVED by _____ to adopt and 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

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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