

Date August 29, 2011

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 18, 2011, its members voted 8-5 in support of a motion to recommend **DENIAL** of a request from Capstone Ventures, LLC (owner) represented by Douglas Siedenbug (officer) to rezone property located at 315 Southwest 14<sup>th</sup> Street from "C-3B" Central Business District Mixed Use District to "PUD" Planned Unit Development.

The subject properties are more specifically described as follows:

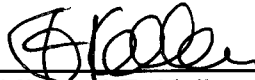
(Except the North 360 feet on West Line and North 249.2 feet on East Line) Lot 3, Central Des Moines Industrial Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

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

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on September 12, 2011, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:



Michael F. Kelley, Assistant City Attorney

(ZON2011-00137)

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

August 24, 2011

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held August 18, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Joel Huston		X		
Ted Irvine		X		
Greg Jones	X			
Jim Martin	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

**APPROVAL** of a request from Capstone Ventures, LLC (owner) represented by Douglas Siedenburg (officer) Part A) to find the proposed rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan's future land use designation of Downtown Support Commercial.

By separate motion Commissioners recommended 8-5 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes		X		
Joel Huston		X		
Ted Irvine		X		
Greg Jones		X		
William Page	X			
Christine Pardee		X		



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309-1881  
 (515) 283-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

Commission Action:	Yes	Nays	Pass	Absent
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

**DENIAL** of Part B) to rezone the property from “C-3B” Central Business District Mixed Use District to “PUD” Planned Unit Development. ZON2011-00137

By separate motion Commissioners recommended 9-4 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John “Jack” Hilmes		X		
Joel Huston		X		
Ted Irvine		X		
Greg Jones	X			
William Page	X			
Christine Pardee		X		
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

**DENIAL** of Part C) a PUD Conceptual Plan for “315 SW 14th Street” to allow conversion of the existing 31,229-square foot building to a Federal Immigration and Customs Enforcement (ICE) processing center that would include the temporary detention of individuals in ICE custody, and allow construction of a future three-story 39,000-square-foot building for office and retail use.

Written Responses

- 2 In Favor
- 1 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends the Plan and Zoning Commission find the requested rezoning not in conformance with the existing Des Moines’ 2020 Community Character Plan’s future land use designation of Downtown Support Commercial.

Parts B) Staff recommends denial of the proposed rezoning to “PUD” Planned Unit Development District.

Part C) Staff recommends denial of the proposed PUD Conceptual Plan for “315 SW 14<sup>th</sup> Street”.

## STAFF REPORT

### I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed PUD would allow for conversion of the existing 31,229-square foot building to a Federal Immigration and Customs Enforcement (ICE) processing center that would include the temporary detention of individuals in ICE custody. The rezoning is necessary since an ICE facility with on-site detention of individuals in custody is not a use permitted in the "C-3B" District unless the Zoning Board of Adjustment grants a Special Permit for such use. On June 22, 2011, the Zoning Board of Adjustment denied a request for a Special Permit for such use at this site.

The submitted PUD Conceptual Plan states: "Permitted uses in the PUD shall be those as permitted and limited in the "C-3B" District. However, Lot 1 may also include governmental law enforcement uses. The governmental law enforcement uses will consist primarily of office use with no more than 15% to 25% of the building on Lot 1 being used for detention. There will be no overnight residential use of the facility and the hours of operation shall be limited to the hours of 6:00 AM to 8:00 PM daily."

The PUD also includes a second phase (Lot 2) that conceptually proposes a three-story, 39,000-square foot building for office and retail use. The PUD includes the statement that any future development on Lot 2 shall be subject to an amendment of the PUD Conceptual Plan and shall be in accordance with the design guidelines applicable to the "C-3B" District.

The subject property is within an area recognized as Riverpoint West/Gray's Landing, which is primarily zoned "C-3B" Central Business Mixed Use District. The "C-3B" District has design guidelines applicable to any Site Plan under consideration that are intended to establish a lively pedestrian-scaled, urban setting. These guidelines are intended to work with the "C-3B" District zoning regulations to assure that redevelopment is pedestrian-oriented and compatible with the new mixed-use neighborhood. Rezoning the site to PUD District would be contrary to these objectives. Renovations of the existing building would perpetuate non-compliance with the desired development patterns in the area, as the area is planned for urban development with minimum 3-story buildings framing the public streets.

The criteria issued by the U.S. General Services Administration (GSA) for the selection of a location for the proposed U.S. Department of Immigration and Customs Enforcement (ICE) facility states "this government office shall not be located adjacent to, in close proximity and/or within residential areas, educational facilities, religious facilities, and/or retail facilities." Staff has analyzed existing and planned uses within ¼-mile of the site since ¼-mile is the distance the 2020 Community Character Plan identifies as being "walkable".

While there are no existing educational facilities or religious facilities, and only limited existing retail uses, within ¼-mile of the site, there are several existing and planned residential developments. These include the 48-unit Mulberry Lofts at 112 11<sup>th</sup> Street, the Central Iowa Shelter and Services homeless shelter under construction at 1402 Mulberry Street, and the proposed 34-unit Crane Building Artist Lofts at 1440 Walnut Street. In addition, the Riverpoint West Master Plan calls for a minimum of 500

residential dwelling units (at least 1,000 residents) within ¼-mile of the site, with some units anticipated as little as 320 feet from the subject property. Furthermore, the River Point West Master Plan calls for significant commercial development in the surrounding area, including two planned hotels.

2. **Size of Site:** 4.0 acres.
3. **Existing Zoning (site):** “C-3B” Central Business Mixed-Use District with “GGP” Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** The site includes a 31,229-square foot building with office and warehouse components. The site is occupied by Capstone Ventures.
5. **Adjacent Land Use and Zoning:**
  - North* – “C-3B”; Use is a warehouse with an office component.
  - South* – “C-3B”; Uses are Tuttle Street and Lumberman’s Wholesale Company distribution facility.
  - East* – “C-3B”; Use is undeveloped land.
  - West* – “C-3B”; Uses are Southwest 14<sup>th</sup> Street and undeveloped land.
6. **General Neighborhood/Area Land Uses:** The property is located just south of West Martin Luther King, Jr. Parkway in an area of the Downtown Des Moines Neighborhood recognized as Riverpoint West/Gray’s Landing.
 

The City of Des Moines has entered into a development agreement with River Point West, LLC, regarding future development of multiple parcels in the immediate vicinity. The developments would include approximately 740,000 square feet of commercial building space, with private parking and other site amenities. In addition, the Riverpoint West Master Plan calls for a minimum of 500 residential dwelling units (at least 1,000 residents) within ¼-mile of the subject property with some units anticipated as little as 320 feet from the subject property. The City has committed over twenty-three million dollars to support implementation of the Riverpoint West / Grays Landing development concept. This includes \$17.5M of HUD Section 108 funds; \$2M of Brownfield Economic Development Initiative funds; a City economic development grant of \$2M for land purchase, and a \$520K RISE grant obtained for construction of SW 11<sup>th</sup> Street.
7. **Applicable Recognized Neighborhood(s):** Downtown Des Moines Neighborhood Association.
8. **Relevant Zoning History:** On May 23, 2005, the subject property and the surrounding area were rezoned from “M-1” Light Industrial District to “C-3B” Central Business Mixed-Use District by Ordinance 14,456.

On June 22, 2011, the Zoning Board of Adjustment denied a request for a Special Permit to allow use of a structure and land by any department of the federal government that would have allowed the ICE facility being proposed as a permitted use in the PUD. The Board's decision was based on the following finding:

*The proposed use of 315 SW 14th Street for a stand-alone governmental law enforcement agency operated by the United States' Department of Immigration and Customs Enforcement (ICE) that would involve temporary detention and holding of detainees in ICE custody, does not satisfy the criteria necessary for granting a Special Permit. The applicant has failed to demonstrate that the proposed operation in this location would adequately safeguard the health, safety and welfare of occupants of adjoining and surrounding property. The applicant has failed to demonstrate that the proposed operation would not increase congestion on public streets. The applicant has failed to demonstrate that the proposed operation would have no detrimental impact on the use and enjoyment of adjoining properties, as the use could diminish property values and deter potential tenants, residents, and investors.*

*The City of Des Moines has entered into a development agreement with River Point West, LLC, regarding future development of multiple parcels in the immediate vicinity. The developments would include approximately 740,000 square feet of commercial building space, with private parking and other site amenities. In addition, the Riverpoint West Master Plan calls for a minimum of 500 residential dwelling units (at least 1,000 residents) within ¼-mile of the subject property with some units anticipated as little as 320 feet from the subject property. The City has committed over twenty-three million dollars to support implementation of the Riverpoint West / Grays Landing development concept. This includes \$17.5M of HUD Section 108 funds; \$2M of Brownfield Economic Development Initiative funds; a City economic development grant of \$2M for land purchase, and a \$520K RISE grant obtained for construction of SW 11th Street. The proposed use is incompatible with the planned commercial and residential uses in the immediate vicinity and would be detrimental to these established implementation efforts and the conditions proposed by the applicant do not resolve the core issue of incompatibility.*

*The criteria issued by the U.S. General Services Administration (GSA) for the selection of a location for the proposed U.S. Department of Immigration and Customs Enforcement facility states "this government office shall not be located adjacent to, in close proximity and/or within residential areas, educational facilities, religious facilities, and/or retail facilities".*

*The Board has received limited response from the applicant or GSA regarding questions the City has raised about the proposed operation of an ICE facility at this and similar locations. The Board has not received adequate assurance from the GSA that operations at the proposed facility will not change in the future if the use is granted.*

**9. 2020 Community Character Land Use Plan Designation: Downtown Support Commercial.**

**10. Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

The application, accompanying evidence and Conceptual Plan shall be considered by

the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of this division and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the Conceptual Plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the commission shall be referred to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. **Drainage/Grading:** The submitted PUD Conceptual Plan does not demonstrate or discuss stormwater management. Any approved PUD Conceptual Plan must demonstrate or discuss conceptual stormwater management for the site. The site must comply with the City’s storm water management, soil erosion protection and grading requirements as approved by the City’s Permit and Development Center’s engineering staff during any future Development Plan (site plan) review.
- 2. **Utilities:** The submitted PUD Conceptual Plan does not demonstrate how the site would be served by a sanitary sewer. Any approved PUD Conceptual Plan must demonstrate such.
- 3. **Landscaping:** The submitted PUD Conceptual Plan demonstrates conceptual landscaping around the perimeter of off-street parking areas and within landscape islands. It also includes the statement that the site will be landscaped in accordance with the landscape standards applicable to the “C-3” District.
- 4. **Parking:** The submitted PUD Conceptual Plan demonstrates that 69 off-street parking spaces would be provided for the 31,229-square foot building on Lot 1 (1 parking space per 453 square feet) and that 155 parking spaces would be provided for the conceptual 39,000-square foot building on Lot 2 (1 parking space per 252 square feet).
- 5. **Fire Protection:** Any approved PUD Conceptual Plan must satisfy the following statement: In accordance with IFC Section 508.5.1; where a portion of the facility or building hereafter constructed or moved within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided.
- 6. **2020 Community Character Plan:** The proposed use for a governmental law enforcement agency is not in conformance with the Des Moines’ 2020 Community Character Plan Future Land Use. The Plan designates this site and the surrounding area as Downtown Support Commercial, which allows for “general businesses, retail and service establishments, limited high density residential, mixed use developments, and work centers that support the downtown core providing their own off-street parking”.

7. **Fencing:** The submitted PUD Conceptual Plan includes a statement that all fencing shall be in accordance with zoning regulations applicable to the “C-3B” District. An 8-foot tall black vinyl-clad chain link fence is shown to surround a parking area to the rear of the building.
8. **Signage:** The submitted PUD Conceptual Plan includes a statement that all signage shall be in accordance with zoning regulations applicable to the “C-3B” District.
9. **Trash Enclosures:** The submitted PUD Conceptual Plan includes a statement that all trash enclosures will be constructed with masonry walls to match the primary structure and have steel gates.
10. **Urban Design/“C-3B” District Design Guidelines:** The subject property is within an area recognized as Riverpoint West/Gray’s Landing, which is primarily zoned “C-3B” Central Business Mixed Use District. The “C-3B” District has design guidelines applicable to any Site Plan under consideration that are intended to establish a lively pedestrian-scaled, urban setting. These guidelines are intended to work with the “C-3B” District zoning regulations to assure that redevelopment is pedestrian-oriented and compatible with the new mixed-use neighborhood. Rezoning the site to PUD District would be contrary to these objectives. Renovations of the existing building would perpetuate non-compliance with the desired development patterns in the area, as the area is planned for urban development with minimum 3-story buildings framing the public streets.

The following are the “C-3B” District Design Guidelines as listed in Chapter 82 of the City Code (Section 82-214.7) with staff comments in italics:

In acting upon any Site Plan application for property located within the C-3B central business mixed-use district, the plan and zoning commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section. The decision to approve, approve subject to conditions or disapprove a proposed Site Plan shall be based upon the conformance of the Site Plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district, then these guidelines shall apply only to the expansion of the building.

- 1) **Building Heights.** Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.

*The existing building is only 1-story in height. No building additions are proposed.*

- 2) **Riverfront setbacks:** Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a riverfront park (not part of the levee reconstruction) should front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative



profile of a minimum 20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

N/A.

- 3) Lighting: All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

*Any approved PUD Conceptual Plan should include a note to state that all exterior lighting upon private property should be pedestrian in scale.*

- 4) Residential building standards: New residential buildings should also comply with the following guidelines:

- a. Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).
- b. At least one building entrance for the residential uses should directly access the street when located above street-level retail.
- c. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
- d. Buildings should have a maximum setback of 15 feet from the public right-of-way.
- e. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

N/A.

- 5) Commercial building standards: New commercial buildings should also comply with the following guidelines:

- a. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
- b. A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.

*The existing building is setback approximately 69 feet from the front property lines adjoining Southwest 14<sup>th</sup> Street. No building additions are proposed. The proposed PUD Conceptual Plan demonstrates that the future building on Lot 2 would comply with these guidelines.*

- c. Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.

N/A.

- d. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

*The proposed PUD Conceptual Plan demonstrates that service entrances would be located at the rear of the buildings. Trash enclosures would be located within parking areas to the rear of the buildings.*

- e. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

*Any approved PUD Conceptual Plan should include a note to state that restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.*

- 6) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick, or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.

*The submitted PUD Conceptual Plan includes the statement that all trash enclosures will be constructed with masonry walls to match the primary structure and have steel gates.*

- 7) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards. (See Site Plan Landscape Policies)

*The submitted PUD Conceptual Plan demonstrates conceptual landscaping around the perimeter of off-street parking areas and within landscape islands. It also includes the statement that the site will be landscaped in accordance with the landscape standards applicable to the "C-3" District.*

- 8) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

*The Conceptual Plan demonstrates an overhead garage door would be located on the south (side) façade of the structure and on the east (rear) façade of the structure.*

**11. Staff Rationale:** The criteria issued by the U.S. General Services Administration (GSA) for the selection of a location for the proposed U.S. Department of Immigration and Customs Enforcement facility states "this government office shall not be located adjacent to, in close proximity and/or within residential areas, educational facilities, religious facilities, and/or retail facilities."

While there are no existing educational facilities or religious facilities, and only limited existing retail uses, within ¼-mile of the site, there are several existing and planned residential developments. These include the 48-unit Mulberry Lofts at 112 11<sup>th</sup> Street, the Central Iowa Shelter and Services homeless shelter under construction at 1402 Mulberry Street, and the proposed 34-unit Crane Building Artist Lofts at 1440 Walnut Street. Furthermore, the River Point West Master Plan calls for significant commercial development in the surrounding area, including two planned hotels.

The City of Des Moines has entered into a development agreement with River Point West, LLC, regarding future development of multiple parcels in the immediate vicinity. The developments would include approximately 740,000 square feet of commercial building space, with private parking and other site amenities. In addition, the Riverpoint West Master Plan calls for a minimum of 500 residential dwelling units (at least 1,000 residents) within ¼-mile of the subject property with some units anticipated as little as 320 feet from the subject property. The City has committed over twenty-three million dollars to support implementation of the Riverpoint West / Grays Landing development concept. This includes \$17.5M of HUD Section 108 funds; \$2M of Brownfield Economic Development Initiative funds; a City economic development grant of \$2M for land purchase, and a \$520K RISE grant obtained for construction of SW 11<sup>th</sup> Street.

Staff has received limited response from the applicant or GSA regarding questions the City has raised about the proposed operation of an ICE facility at this and similar locations (i.e. hours of operation, whether or not detainees will be held overnight, definition of “close proximity” as used in the GSA location selection criteria, potential safety threats to adjoining uses that are apparent based upon GSA’s own site location criteria, or increased potential for protests that could disrupt business operations of nearby businesses). While staff believes that a Planned Unit Development Zoning approved by the City Council is the best way to address the City’s concerns and regulate future operations of the facility, staff is specifically concerned about the proximity of the proposed facility to 48 existing residential dwelling units and 534 planned residential dwelling units within ¼ mile of the subject property (some as close as 320 feet from the subject property); two approved hotels within ¼ mile of the subject property and the potential retail uses immediately adjoining the subject property. Therefore, staff recommends denial of the requested rezoning because the proposed operation could have a detrimental impact on the use and enjoyment of adjoining properties, both now and in the future.

**SUMMARY OF DISCUSSION**

Bert Drost presented the staff report and recommendation.

Rita Conner gave an overview on the history and significance of the Riverpoint West development area.

Ted Irvine asked about the proximity of the hotel property and other commercial space to the applicant’s existing building.

Rita Conner stated that two hotels have been approved between SW 9<sup>th</sup> and SW 11<sup>th</sup> north of Tuttle. A mix of commercial and retail uses are planned immediately adjoining the subject property.

John "Jack" Hilmes asked about the plans for Mr. Nielsen's building in the Sherman development?

Rita Conner stated that the representative from Sherman and Associates can speak to this more than she can because she was not present for those conversations. The existing building would remain until the owner elects to redevelop.

William Lillis 317 6<sup>th</sup> Avenue, Ste. 300 appearing on behalf of Capstone Ventures, and his partner Dan Manning with Mr. Siedenburg and Mr. Nielsen who are the representative of Capstone Ventures. Mr. Manning passed out a booklet to the Commission to assist with the location and the applicant's request. Mr. Lillis stated that the applicant disagrees with staff recommendation. He stated that they went to the Zoning Board of Adjustment for special use permit and the request was denied. He referred to the request from the U.S. Federal Properties Company's (Item 6 was previously withdrawn) and stated his client desired a similar staff recommendation. He referred to a letter sent to the Commission where the applicant reviewed a copy of the letter from one of the neighbors of Capstone, George E. Sherman, as President of River Point West, LLC (hereafter "Mr. Sherman") taking exception to comments and conclusions of Mr. Sherman. This use is compatible in keeping with the existing zoning; it is an office use and they disagree with staff and Mr. Sherman. He also ask that staff receive, file and make part of record a brochure, appraisal report, and a copy of the amended and restated urban renewal development agreement.

Ted Irvine asked if the applicant's proposal is essentially an office building.

William Lillis stated yes.

Ted Irvine asked if there is a detention component to the use.

William Lillis stated no, it is a processing center with limited hours, and a fence that surrounds the back of the building for a parking lot for the employees.

Ted Irvine asked what is the fate of Capstone property.

William Lillis stated that his client has been perplexed as to why this property has not been included either by the City or Mr. Sherman because it is an identical type of use. If it does not pass this evening they will continue on to the City Council. They intend to submit the PUD to the General Services Administration to say here is what we will do if we are the successful bidder. They have complied with all of the requirements. The present use in the Federal Building is near housing, and other commercial uses. They intend to continue on. They were required to go to the Zoning Board of Adjustment because of the interpretation of staff for a special permit, they did and the application was denied. So they have brought an action against the Zoning Board of Adjustment because they had to within a 30 day period of time. When a competing application was filed to amend the PUD at 61<sup>st</sup> and Thornton, their reaction is why can't they do the same thing. They are asking that this PUD be permitted on two acres of a four acre site.

Tim Fitzgerald asked about the gated parking lot, if that is a condition of the GSA and would there be any other fencing around this site to suggest that it is a jail.

William Lillis stated yes the gated parking lot is a condition of the GSA with wrought iron and no there will be no other fencing around this site and he believe that this is an office use.

Tim Fitzgerald asked if the people that are being detained will be driven to and from the building.

William Lillis stated that in the RFP and drawing presented tonight there will be two garage doors so that the detainees or whoever is there for that purpose would be brought in detained and processed but they could not stay overnight.

Dann Flaherty asked if they are prisoners.

William Lillis stated that he presumes they would be. People that would be brought their not of their own liking for whatever reason and they would be there for that purpose.

Dann Flaherty asked would the fence be there for purposes of keeping them from fleeing.

William Lillis stated that he did not know. He has been told that the fence is for the employees parking.

Tim Fitzgerald asked the height of the fence.

William Lillis stated that the fence is 8 feet.

Ted Irvine asked what material is the fence

William Lillis stated that it is a black wrought iron fence.

Dann Flaherty pointed out that the plan indicates chain link fence and not wrought iron.

William Lillis stated the plan will need to be changed to say wrought iron fence.

John "Jack" Hilmes asked how many employees from the Federal Building are coming in the proposed facility. Is it just a transition?

William Lillis stated that they have been told that they are out of room in the Federal Building, they need their own facility.

Doug Sedenburg Capstone Venture 315 SW 14<sup>th</sup> Street stated that they have been told that there are 30 to 35 employees currently operating in the Federal Building and that they will be hiring more people because they are out of room where they are. They have not seen anything in writing that talks about the existing number of employees in the Federal Building. They have been told that they are out of space and they intend to grow the facility, because there is more demand.

Bill Nielsen 315 SW 14<sup>th</sup> Street stated that the RFP calls for 31-35 secured parking stalls for Federal vehicles.

John "Jack" Hilmes asked if there is detention currently in the Federal Building.

Doug Sedenburg stated yes that is what they have been told verbally. The fence is strictly for parking it is not for detention. Two-thirds of the building will not have fence around it.

John "Jack" Hilmes stated that it could be that they are moving the ICE office out of the Federal Building.

Doug Sedenburg stated that is their impression.

CJ Stephens asked someone to clarify the net new jobs this is creating.

William Lillis stated that they cannot say with certainty as to the net new jobs. They are responding to the RFP and they are required to have 30 – 35 parking spaces for the employees.

Dann Flaherty stated that they are talking about a RFP. They are submitting a RFP to the Federal Government and they do not know if they are going to get this lease.

William Lillis stated they do not know if they are going to get this lease. Capstone would own the property and lease it back to the federal government. They do not know if they are going to get it.

Ted Irvine asked if this is a tax exempt facility.

William Lillis stated that it is not a tax exempt facility. It would be taxed. It is a multi-million dollar facility that would go into the tax roll.

Mike Ludwig asked Mr. Lillis to clarify the fourth bullet point in the letter under Tab 1 where they indicate that the proposed hotels in the River Point are in a half mile distance from the project. There is a discrepancy in what staff presented and what the applicant stated.

William Lillis stated that they disagree with staff. The third paragraph on page 2 of staff recommendation states that there are no educational facilities within one quarter mile of the site there are several existing and planned residential development. These include the 48 unit Mulberry lofts at 112 11<sup>th</sup> Street – the applicant says that is .7 miles. The Central Iowa Shelter and Services are about 1,000 feet and the two planned hotels is 1600 feet which is almost .3 miles.

Mike Ludwig stated that their letter reference a half mile to the hotels.

William Lillis stated that it is more than a quarter and less than half mile. He also states that the Central Iowa Shelter and Services have no objection to their proposed use at this location.

Mike Ludwig referred to the applicant's seventh bullet point in their letter that indicates that the residential units are conceptual at best. He clarified that it is part of the City's plan whether it is conceptual or approved.

William Lillis stated that they recognize that it is part of a conceptual plan. The Moffitts who are consenting have "C-3B" zoning and the railroad has had two different contracts with Mr. Sherman. The neighbors that are there have no plan to down zone their properties. They do not feel that their use is incompatible with any kind of residential use.

Mike Ludwig referred to the eleventh bullet point in their letter the opinion of the Iowa Appraisal and Research Corporation and because it is being submitted tonight pointed out that at the Zoning Board of Adjustment meeting there was testimony that staff questioned that opinion and asked that the record of the Zoning Board of Adjustment hearing be included also.

William Lillis noted the Zoning Board of Adjustment has no jurisdiction over this item. The staff report speaks for itself, the appraisal speaks for itself and that is why they want it in the record.

Dann Flaherty stated that he is going to allow the proceedings of the Zoning Board of Adjustment to be part of the Plan and Zoning record.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor of the applicant's request.*

*The following spoke in opposition of the applicant's request:*

Judy Lonning 5131 Robertson Drive, member of Iowa Citizens for Community Improvement stated that she opposes the proposed ICE detention center on SW 14<sup>th</sup>. They do not need a bigger immigration detention center in Des Moines. They do not need more families terrorized and torn apart. She does not consider this proposal to be an office space; it is a holding pen for human beings with some offices to serve that holding pen. It is becoming more and more evident that there are vast profits being made by private companies holding migrants. The detention of immigrants by the private prison industry is now a multi-billion dollar business and the more folks rounded up the more money they make. ICE contracts with these for profit prison companies to run their facilities. A bigger detention center in Des Moines would be a push to fill it and more of Iowa's fathers, mothers, and children would be unfairly profiled and criminalized. It is not criminal offense to be in the United States without documentation, it is a civil violation. There is already a detention facility in Des Moines at the Federal Building and the effort to create an even bigger detention center is a symptom of all that is wrong with the broken immigration system. Please say no to rezoning on SW 14<sup>th</sup>.

Sister Jeanie Hagedorn 1657 Beaver Avenue states that she is opposed to this on moral grounds. ICE has not been upfront with State and local officials in the United States. They do not need the local law enforcement doing the job of ICE. There should not be a detention facility at all.

Misty Rebik 2917 Grand Avenue stated that the proposal is a detention center and thinks it is important that there is clarification the difference between transferring a detention center to another place or actually expanding a detention center. She believes this proposal is going to be in addition to operations at the Federal Building. There will be no one to oversee the hours of operation. Please do not grant the rezoning.

Karrah Johnston 700 44<sup>th</sup> Street stated that she does not find prisons and detention center very appealing to live by and urged that the Commission follow staff recommendation to deny the applicant's request.

Ruth Schultz 820 17<sup>th</sup> Avenue stated that if the applicant's request is granted the character plan for this area in Des Moines will not be realized because people will not go near that place because it would cause fear that they will get asked where you from, where are your papers. Also, the office hours will not be upheld once this zoning is approved. Please do not grant the applicant's request.

Elvira Guerrero 2001 Forest Avenue stated that the Iowa Citizens for Community Improvement and Hispanic Community do not want a new ICE facility and this is a jail. The facility intimidates the Hispanic community. The Latino community does not trust or have courage to go out and buy things from the store because they are afraid of detainment. She asked that the Commission listens to the Hispanic Community. Every Hispanic that they detain is money.

Will Page asked if the Latino community feels welcomed in Des Moines.

Elvira Guerrero stated that years ago yes, but now no people are scared.

Jim Thomas 9500 University, Clive stated that when a program is turned over to the federal government he believes that there is a loss of control. The image is negative.

### Rebuttal

William Lillis stated that he believes the request is an office use, contrary to the comments. They are requesting that the entire four acre property become a PUD. They are responding to a request for proposal. It is not for sale and they think that this use is compatible whether it is next to offices or homes. The drawings will be amended to indicate a wrought iron like fence. They are proud of the building and believe the drawings speak for themselves. They believe that this is a catalyst for economic development and respectfully disagree with those comments the proximity of other uses to this facility. The most immediate neighbor is the applicant themselves, which is noted in the record. They are willing to make a self imposing restriction that the zoning would be subject to a PUD that would require any amendment to come back to the City for approval or to develop within a ten year period of time. They disagree with staff recommendation.

### CHAIRPERSON CLOSED THE PUBLIC HEARING

Ted Irvine asked about the enforcement of hours and who is responsible.

Mike Ludwig stated the hours of operation that they are imposing would be enforced by zoning enforcement staff on a complaint basis until applications came in for new facilities. The City was not aware that the operations were occurring in the Federal Building. The



Federal Building is owned by the federal government and they are exempt from the local zoning. In this instance because it is under private ownership staff believes they would be subject to City zoning. The question could be raised whether they would still be exempt. Staff felt that the PUD was the better way to address that because the hearings are a legislative decision, there are discussions and more information can be entered than when you are at the Board of Adjustment level.

John "Jack" Hilmes asked how many locations have been proposed for an ICE facility within the City.

Mike Ludwig stated that he believes this is the third application. One that was proposed for a special use permit in front of the Board of Adjustment that was near Principal and their day care center. That application was withdrawn prior to the hearing. The second application that was considered by the board was the same property being discussed this evening. That application was denied by the board. The third application was the item that was Item 6 that was withdrawn from tonight's agenda. There have been other properties that have expressed interest but no other applications have been filed.

John "Jack" Hilmes asked have there been other sites proposed in other cities.

Mike Ludwig stated that there was one proposed in Urbandale. Their Plan and Zoning Commission recommended denial of that and the application was withdrawn before going to their city council. He has not heard of any other sites under consideration in other jurisdictions.

John "Jack" Hilmes asked if staff made some effort to become familiar with similar installations in other communities to have some idea to what really happens.

Mike Ludwig stated yes.

John "Jack" Hilmes asked how pervasive ICE centers like this maybe in our corridor the upper Midwest.

Mike Ludwig stated that within Iowa his understanding is that ICE does have facilities in Cedar Rapids and Sioux City. GSA and ICE have not been willing to share a whole lot of information regarding the operation of those facilities. The general statement made about the hours of operation was that they could not detain a person for more than 12 hours but they would still need 24 hours access to the building.

John "Jack" Hilmes asked if it staff's effort in researching similar facilities in other communities have been thwarted by non responsiveness of the federal government.

Mike Ludwig stated that he would not say they have been non responsive, he would say the City has not received all of the answers that they wanted.

John "Jack" Hilmes stated that this leads to part of the problem with this whole thing whether it is before Plan and Zoning Commission, Zoning Board of Adjustment, Mr. Lillis client, or any other clients, there are a lot of rumors and uncertainty swirling around that drives the opposition and leave questions for those who may be in favor of any of these proposals. He also asked about the other request for an ICE facility and what was the

difference in the one that staff recommended approval for and this one that staff recommended denial of.

Mike Ludwig stated the GSA criteria specify that it should not be in close proximity of retail, school, daycare, church, or residential uses. In every application that has come for city staff review, staff has tried to be very objective and consistent in the analysis of what the uses are in the surrounding area of the property. The staff report on this item is clear that there are a number of those uses that GSA's own criteria say the facility should not be near or in proximity to. Therefore, staff recommended denial of this proposal.

Greg Jones asked about the 6/7 vote for Council. Will it matter if the Commission votes to deny the applicant's request? Will the Council still be required to pass it with a 6/7 vote.

Mike Ludwig stated that the recommendation from the Commission for denial would trigger a 6/7 vote. The percentage of opposition by adjoining property owners currently triggers a 6/7 vote. Right now if the Commission recommended an approval for this item and for some reason the adjoining property owners changed their opinions prior to the Council hearing it may not require a 6/7 vote at the council.

John "Jack" Hilmes asked if this was a police station would they have to go through the same hoops with respect to GSA proposed uses.

Mike Ludwig stated that the police station would be a special permit through the Zoning Board of Adjustment. There could be a similar hearing by Plan and Zoning Commission on a police station if it were proposed as a PUD.

Kent Sovern stated that if indeed this is a commercial facility then he agrees with staff that the proposed use within the facility may in fact be incompatible with what the Commission has been working on in the past 15 years. The particular use is apart from the zoning itself. He does not find that the PUD that has commercial use in this area is necessarily incompatible with the character plan.

Bert Drost stated that the Community Character Land Use Plan specifically states that it designates this site downtown support commercial. The text that goes along with that destination allows for general businesses, retail and service establishments, limited high density residential, mixed use developments and work centers that support the downtown core by providing their own off-street parking.

Kent Sovern stated that the Commission has been briefed on and accepted a concept plan for this area that is in itself incompatible with what staff just listed.

Bert Drost stated that staff disagrees that this proposal is an office. The fact that the people are coming and going against their will confirms that it is not a commercial space.

Kent Sovern asked for staff rationale for staff recommendation Part B.

Mike Ludwig stated that it is not in conformance with the Comp Plan and paragraph 11 of the staff report provides the staff rationale for staff recommendation.

**COMMISSION ACTION:**

CJ Stephens moved staff recommendation Part A) to find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan's future land use designation of Downtown Support Commercial.

Motion passed 11-2 (CJ Stephens, John "Jack" Hilmes, Tim Fitzgerald, JoAnne Corigliano, Kent Sovern, Dann Flaherty, Will Page, Shirley Daniels, Jacqueline Easley, Greg Jones, Christine Pardee voted in favor. Ted Irvine and Joel Huston voted in opposition)

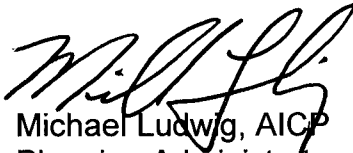
CJ Stephens moved staff recommendation Part B) to deny the proposed rezoning to "PUD" Planned Unit Development District.

Motion passed 8-5 (CJ Stephens, Tim Fitzgerald, JoAnne Corigliano, Kent Sovern, Dann Flaherty, Will Page, Shirley Daniels, and Jacqueline Easley voted in favor. Greg Jones, John "Jack" Hilmes, Christine Pardee, Joel Huston, and Ted Irvine voted in opposition)

CJ Stephens moved staff recommendation Part C) to deny the proposed PUD Conceptual Plan for "315 SW 14<sup>th</sup> Street".

Motion passed 9-4 (CJ Stephens, Greg Jones, Tim Fitzgerald, JoAnne Corigliano, Kent Sovern, Dann Flaherty, Will Page, Shirley Daniels, and Jacqueline Easley voted in favor. John "Jack" Hilmes, Christine Pardee, Joel Huston, and Ted Irvine voted in opposition)

Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

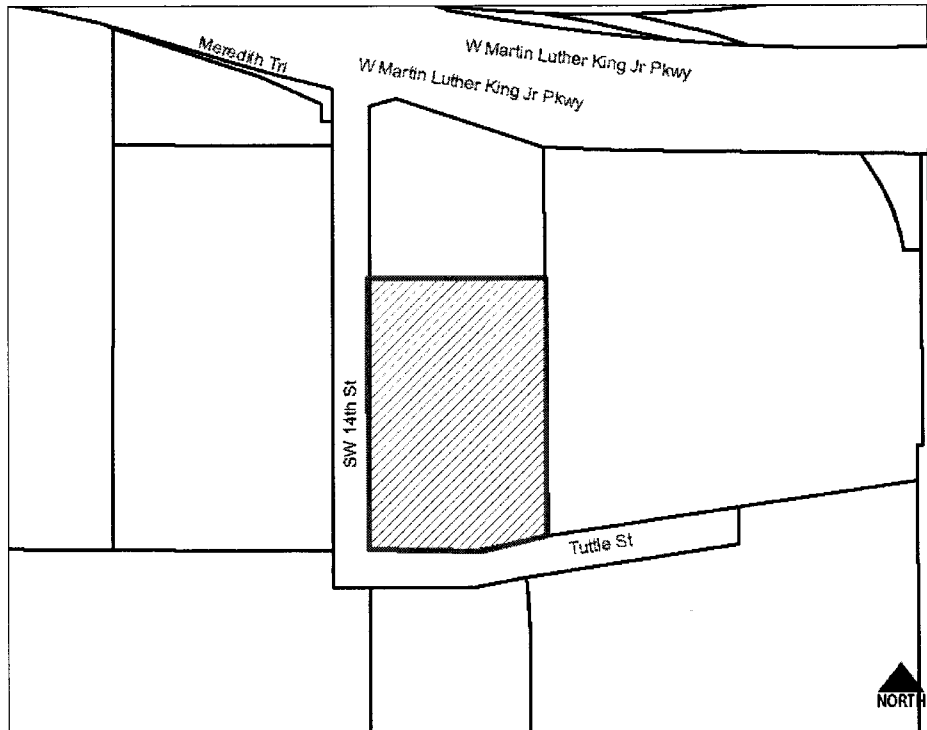
MGL:clw

Attachment

Request from Capstone Ventures, LLC (owner) represented by Douglas Siedenburg (officer) to rezone property located at 315 Southwest 14 <sup>th</sup> Street.		File # ZON2011-00137			
<b>Description of Action</b>	(B) Review and approval to rezone the property from "C-3B" Central Business District Mixed Use District to "PUD" Planned Unit Development and (C) Review and approval of a PUD Conceptual Plan for "315 SW 14th Street" to allow conversion of the existing 31,229-square foot building to a Federal Immigration and Customs Enforcement (ICE) processing center that would include the temporary detention of individuals in ICE custody, and allow construction of a future three-story 39,000-square-foot building for office and retail use..				
<b>2020 Community Character Plan</b>	Downtown; Support Commercial				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"C-3B" Central Business District Mixed Use District				
<b>Proposed Zoning District</b>	"PUD" Planned Unit Development				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	8-5		No	

Capstone Ventures LLC - 315 Southwest 14th Street

ZON2011-00137



Item ZON2011-00137

Date 8-13-2011

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

Print Name DAVID C. MOFFITT

Signature David C. Moffitt

Address DAVID C. MOFFITT  
8325 CENTURY DR.  
WEST DES MOINES, IA 50266

Reason for opposing or approving this request

I have no problem with the rezoning.

Item ZON2011-00137

Date 8/15/11

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

Capstone Ventures LLC by

**RECEIVED  
COMMUNITY DEVELOPMENT  
DEPARTMENT  
AUG 17 2011  
SUBJECT  
PROPERTY  
OWNER**

Name William Nielsen

Signature William Nielsen

Address 315 SW 14th

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

We are in favor of the request because it will be a great economic catalyst to the area that is in desperate need of one. The property will be completely improved and with it increased property taxes as well as an increase in new jobs, approximately 35, will be permanently added to the community.



**RECEIVED**

**AUG 19 REC'D**

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

August 10, 2011

Michael Ludwig, Administrator  
Planning and Urban Design Division  
Community Development Department  
City of Des Moines  
600 Robert D. Ray Drive  
Des Moines, IA 50309

RE: ZON 2011-00137 Capstone Ventures, LLC, 315 SW 14<sup>th</sup> Request to Rezone

Dear Mr. Ludwig:

As the Master Developer of Riverpoint West and the primary land owner in the vicinity of the property, I strongly object to the rezoning of this property to PUD to allow use of the land and structure located at 315 SW 14<sup>th</sup> Street by the United States' Department of Immigration and Customs Enforcement (ICE).

Over the past 6 years, River Point West LLC has worked in conjunction with the City of Des Moines to establish the framework for a mixed-use development on this brownfield site. This framework includes the development agreement, the conceptual development plan and the design guidelines for the area, all reviewed and approved by the Des Moines City Council. The majority of the commercial land for this redevelopment has been purchased and construction on 2 hotels is expected to begin this summer.

The proposed ICE facility is incompatible with the future uses of the area. The conceptual development plan contemplates 400 to 500 residential units south of Tuttle Street (south of 315 SW 14<sup>th</sup> Street) as well as Class A/B office space along West Martin Luther King Jr. Parkway directly north of this site. The presence of the ICE facility will negatively impact the marketing of these properties and make it difficult to secure financing. The recession and the glut of office space in the CBD have already had a huge impact on the redevelopment of these properties. The ICE facility will further delay development and could dilute the quality of development that does occur.

I strongly urge the Plan and Zoning Commission to reject this request. The negative financial impact to the development, including the City of Des Moines' investment in the project, would be substantial.

Sincerely,

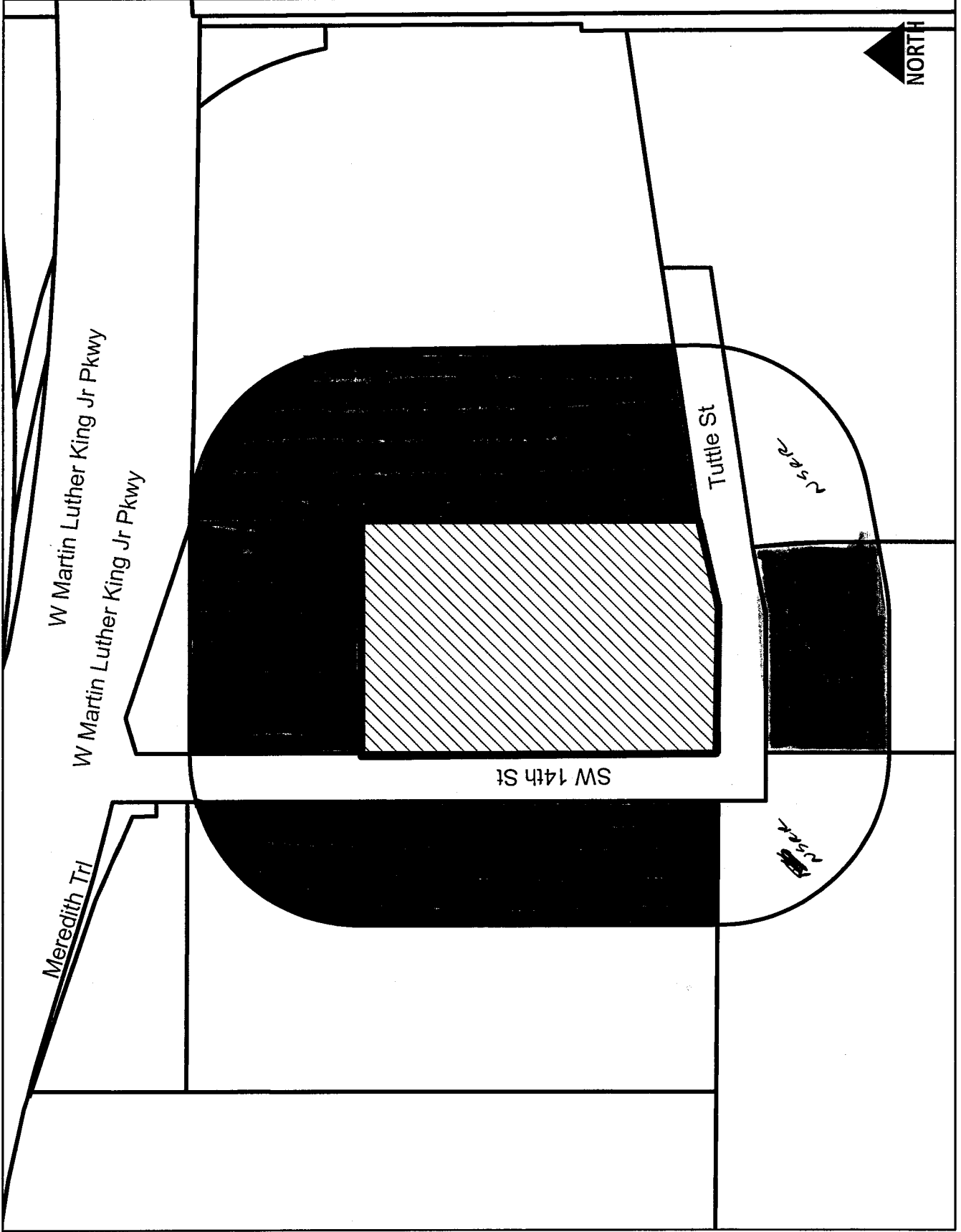
A handwritten signature in black ink, appearing to read "George E. Sherman".

George E. Sherman  
President  
River Point West LLC



Capstone Ventures LLC - 315 Southwest 14th Street

ZON2011-00137



**ADDITIONAL INFORMATION**  
**PRESENTED BY STAFF**

Item 7

ZON2011-00137

Capstone Ventures, LLC

315 SW 14<sup>th</sup> Street

August 18, 2011

City Plan & Zoning Commission





Buyers: [Login](#) | [Register](#) Vendors: [Login](#) | [R](#)



## Lease of space in the Des Moines, Iowa area

Solicitation Number: 11A2011  
 Agency: General Services Administration  
 Office: Public Buildings Service (PBS)  
 Location: Realty Services Division (6PRW)

[Notice Details](#)   [Packages](#)   [Interested Vendors List](#)

[Original Synopsis](#)

Feb 16, 2011

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[Add Me To Interested Vendors](#)

Solicitation Number:

11A2011

Notice Type:

Presolicitation

Synopsis:

Added: Feb 16, 2011 11:22 am

GENERAL

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### U.S. GOVERNMENT SEEKS EXPRESSIONS OF INTEREST

#### TO LEASE OFFICE AND RELATED SPACE IN

#### DES MOINES, IOWA AREA

#### REQUIREMENT

The General Services Administration is interested in leasing quality Office/Industrial and related space consisting of approximately 24,367 rentable square feet of space, which must yield a minimum of 21,189 BOMA Office Area square feet, for personnel, furnishings, and equipment.

#### LEASE TERM

Ten (10) years; five (5) years firm. Must be fully serviced.

#### UNIQUE REQUIREMENTS

To be considered for this project the property being submitted must be in an area that is zoned to accommodate a Government Law Enforcement Agency. This zoning requirement must be verified with the proper local documentation to be considered for a site visit by the Government. Space must be ready for occupancy no later than October 31, 2011. The offered space must meet Government requirements Fire Safety and Handicapped Accessibility. The project will comply with the Interagency Security Committee-Security Standards for Leased Space which would require a 20-foot set back for existing locations. This Government office shall not be located adjacent to, in close proximity and/or within residential areas, educational facilities, religious facilities, and/or retail facilities. The space shall be located in an office, research, technology, business park, or industrial area that is modern in design with a campus-like atmosphere, with the surrounding development maintained and in consonance with a professional image. Locations must have easy highway access, accessible dock, with drive-in overhead doors with a minimum of 12' door opening capable of handling high-profile vehicles. Approximately 4,400 sf of the space will need to be storage, light industrial, and/or laboratory area. 31 secured surface parking spaces for Government vehicles will be required. Interested parties should submit the below pertinent information referencing project #11A2011 to: Patrick Walsh, Lease Contracting Officer, General Services Administration, Real Estate Acquisition Division (6PRE), 1500 Bannister Road, Kansas City, MO 64131-3088. Expressions of interest must be received no later than close of business March 3, 2011.

#### LOCATION

Within the city limits of Altoona, Ankeny, Berwick, Carlisle, Clive, Granger, Grimes, Johnston, Norwalk, West Des Moines, Des Moines, or Pleasant Hill, Iowa.

**WRITTEN EXPRESSIONS OF INTEREST SHOULD INCLUDE THE FOLLOWING INFORMATION**

- 1. Building name and address.
- 2. Legal description.
- 3. One-eighth inch scale drawings of space offered.
- 4. Square footage offered.
- 5. Method of measurement used to determine rentable square feet.
- 6. Name, address, and telephone number of individual to be contacted.
- 7. Evidence of authority to represent the owner.

Zoning compliance per above unique requirements.

This is an inquiry for available space only, not an invitation to bid.

**AUTHORIZED CONTACTS**

In no event shall the offeror enter into negotiations concerning the space leased or to be leased with representatives of Federal agencies other than the officers and employees of the General Services Administration (GSA) or their authorized representative.

EMAIL, FAX, OR MAIL INFORMATION BY Thursday, March 3, 2011,

TO:

General Services Administration

Real Estate Acquisition Division (6PRE)

ATTN: Patrick Walsh

1500 Bannister Road

Kansas City, MO 64131-3088

Phone: 816-823-4981

FAX: 816-926-8307

E-mail: [Patrick.walsh@gsa.gov](mailto:Patrick.walsh@gsa.gov)

Contracting Office Address:

1500 East Bannister Road  
Kansas City, Missouri 64131

Primary Point of Contact:

Patrick G. Walsh,  
Contracting Officer  
[patrick.walsh@gsa.gov](mailto:patrick.walsh@gsa.gov)  
Phone: 816-823-4981  
Fax: 816-926-8307

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[Add Me To Interested Vendors](#)

**Drost, Bert A.**

---

**From:** Ludwig, Michael G.  
**Sent:** Wednesday, April 27, 2011 10:08 AM  
**To:** Drost, Bert A.  
**Subject:** Fw: ICE project Des Moines update (URGENT NEED RESPONSE)

----- Original Message -----

**From:** patrick.walsh@gsa.gov [mailto:patrick.walsh@gsa.gov]  
**Sent:** Wednesday, April 27, 2011 09:45 AM  
**To:** Ludwig, Michael G.  
**Subject:** Fw: ICE project Des Moines update (URGENT NEED RESPONSE)

Michael,

I had you copied on the below message so you have the response to the remaining questions directly from ICE. I will be calling you this a.m. to see if this was beneficial, and if any other information is needed.

Something that I think the city of Des Moines would want to consider is that this ICE office is now operating from the Neal Smith Federal building and they have out grown their space. With the kind of visitor traffic that the Federal Building handles everyday the professionalism of ICE should be commended for performing the below services without incident in what is very limited space, and the project to move them to new expanded space for their operations is a positive move for the citizens of Des Moines. The new facility will allow ICE to move all operations within the walls of their dedicated space, and adding another law enforcement presence is a welcome neighbor in many communities, and the economic impacts of 35 full time employees will also be beneficial.

Please let me know when we discuss because I know at least one developer is on the Des Moines P and Z agenda for this afternoon.

Thank You

Patrick G. Walsh CCIM  
Leasing Contracting Officer | Real Estate Acquisition Division GSA, 6PRE | 1500 Bannister Rd.  
| Kansas City, MO 64131

o (816)-823-4981|c (816)806-6907|f (816)-926-8307 patrick.walsh@gsa.gov  
----- Forwarded by Patrick Walsh/6P/R06/GSA/GOV on 04/27/2011 09:13 AM  
-----

"Sieving, Jason  
B"  
<jason.sieving@dhs.gov>

04/27/2011 08:16  
AM

<patrick.walsh@gsa.gov>, To  
<charles.cook@gsa.gov>, "Sieving,  
Jason B" <jason.sieving@dhs.gov>,  
"Berg, Peter B"  
<peter.berg@dhs.gov>, "Ashlock,  
Rebecca A"

<Rebecca.Ashlock@dhs.gov>,  
"Baniecke, Scott R"  
<scott.baniecke@dhs.gov>, "Mershon,  
Lynn A" <Lynn.Mershon@dhs.gov>

cc

<kenitha.aikman@gsa.gov>,  
<MGLudwig@dmgov.org>

Subject

RE: ICE project Des Moines update  
(URGENT NEED RESPONSE)

All,

Below are our responses to the two questions. Hopefully this will help clear up any confusion and ease any concerns that people may have.

Jason Sieving

Assistant Field Office Director

St. Paul Field Office

952-853-5922

1. As we discussed in our phone conf today, the city of Des Moines is concerned that ICE's usage of the facility could change over the term of the lease ? My suggestion was the appropriate ICE associate could e-mail a copy of the mission statement for the agency that documents what ICE's mission authorizes them to do, in the line of duty ?

The facility will be used to accomplish ICE's mission to protect America and uphold public safety. ICE employees located at this facility will be charged with identifying criminal

activities and eliminating vulnerabilities that pose a threat to our nation's borders as well as enforcing economic, transportation, and infrastructure security.

This facility would be used as office space for ICE employees as well as a processing center for individuals arrested by ICE. Individuals arrested will not be housed at this location overnight. Individuals detained will be transferred to one of the various jails that ICE has a contract with.

2. Along the same lines, the document that demonstrates that ICE is NOT

authorized to keep a detainee over night, for any reason ?

This facility would only contain hold rooms used for temporary detention. It will not be a jail nor converted into a jail. ICE standards do not allow an individual to be held in a hold room for more than twelve hours. The ICE detention standards can be found at [www.ICE.gov](http://www.ICE.gov).

Since ICE is a law enforcement agency dedicated to protecting this country, ICE agents and officers would need access to the facility 24 hours a day.

-----Original Message-----

From: [patrick.walsh@gsa.gov](mailto:patrick.walsh@gsa.gov) [<mailto:patrick.walsh@gsa.gov>]  
Sent: Tuesday, April 26, 2011 2:57 PM  
To: [charles.cook@gsa.gov](mailto:charles.cook@gsa.gov); Sieving, Jason B; Berg, Peter B; Ashlock, Rebecca A; Baniecke, Scott R  
Cc: [kenitha.aikman@gsa.gov](mailto:kenitha.aikman@gsa.gov); [MGLudwig@dm.gov](mailto:MGLudwig@dm.gov)  
Subject: ICE project Des Moines update (URGENT NEED RESPONSE)

ICE Team:

I wasn't sure who from ICE will address these questions, so I addressed to the team. I talked with Michael Ludwig who is the Planning Administrator for the city of Des Moines and found we had answered all the questions from the city with the exception of 2. Also the possibility of coordinating a phone conf between all the parties over the next 2 days is pretty limited, so I told Michael I would send the questions via e-mail for the appropriate

associate to respond to all. The 2 questions are:

1. As we discussed in our phone conf today, the city of Des Moines is concerned that ICE's usage of the facility could change over the term of the lease ? My suggestion was the appropriate ICE associate could e-mail a copy of the mission statement for the agency that documents what ICE's mission authorizes them to do, in the line of duty ?

2. Along the same lines, the document that demonstrates that ICE is NOT authorized to keep a detainee over night, for any reason ?

Although we included the standard hours of operation (6:30 am - 6:00pm) in the lease, and that is when building systems need to be available, it would probably be a good idea to clarify that ICE agents will need access to the facility 24 hours a day.

My hope is that officially answering these questions will help the city of Des Moines feel more comfortable with this project/process that ICE so desperately needs to continue operations in Des Moines, that have been operating out of the current very limited office space in the Federal Building.



AGAIN THE APPROPRIATE ICE ASSOCIATE PLEASE REPLY TO ALL ON THIS MESSAGE.

Thank You

Patrick G. Walsh CCIM

Leasing Contracting Officer | Real Estate Acquisition Division

GSA, 6PRE | 1500 Bannister Rd. | Kansas City, MO 64131

-----  
o (816)-823-4981 | c (816)806-6907 | f (816)-926-8307

patrick.walsh@gsa.gov



**ZONING BOARD OF ADJUSTMENT  
CITY OF DES MOINES, IOWA  
DECISION AND ORDER**

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within **two years** or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM	:	DOCKET: <b>ZON 2011-00072</b>
	:	
<b>CAPSTONE VENTURES, LLC</b>	:	
	:	PUBLIC HEARING: <b>JUNE 22, 2011</b>
ON PROPERTY LOCATED AT	:	
	:	
<b>315 SW 14<sup>TH</sup> STREET</b>	:	

SUBJECT OF THE APPEAL

**Proposal:** Use of the 31,299-square foot structure as a governmental law enforcement agency operated by the United States' Department of Immigration and Customs Enforcement (ICE). The use would involve office and administrative functions, as well as temporary detention and holding of detainees in ICE custody that are on-site for processing. The use would also include up to 72 parking spaces.

**Appeal(s):** Special Permit to allow use of a structure and land by any department of the federal government.

*Required by City Code Section 134-1326(1)*

FINDING

The proposed use of 315 SW 14th Street for a stand-alone governmental law enforcement agency operated by the United States' Department of Immigration and Customs Enforcement (ICE) that would involve temporary detention and holding of detainees in ICE custody, does not satisfy the criteria necessary for granting a Special Permit. The applicant has failed to demonstrate that the proposed operation in this location would adequately safeguard the health, safety and welfare of occupants of adjoining and surrounding property. The applicant has failed to demonstrate that the proposed operation would not increase congestion on public streets. The applicant has failed to demonstrate that the proposed operation would have no detrimental impact on the use and enjoyment of adjoining properties, as the use could diminish property values and deter potential tenants, residents, and investors.

The City of Des Moines has entered into a development agreement with River Point West, LLC, regarding future development of multiple parcels in the immediate vicinity. The developments would include approximately 740,000 square feet of commercial building space, with private parking and other site amenities. In addition, the Riverpoint West Master Plan calls for a minimum of 500 residential dwelling units (at least 1,000 residents) within ¼-mile of the subject property with some units anticipated as little as 320 feet from the subject property. The City has committed over twenty-three million dollars to support implementation of the Riverpoint West / Grays Landing development concept. This includes \$17.5M of HUD Section 108 funds; \$2.5M of Brownfield Economic Development Initiative funds; a City economic development grant of \$2.5M for land purchase, and a \$520K RISE grant obtained for construction of SW 11<sup>th</sup> Street. The proposed use is incompatible with the planned commercial and residential uses in the immediate vicinity and would be detrimental to these

FINDING (CONTINUED)

established implementation efforts and the conditions proposed by the applicant do not resolve the core issue of incompatibility.

The criteria issued by the U.S. General Services Administration (GSA) for the selection of a location for the proposed U.S. Department of Immigration and Customs Enforcement facility states "this government office shall not be located adjacent to, in close proximity and/or within residential areas, educational facilities, religious facilities, and/or retail facilities".

The Board has received limited response from the applicant or GSA regarding questions the City has raised about the proposed operation of an ICE facility at this and similar locations. The Board has not received adequate assurance from the GSA that operations at the proposed facility will not change in the future if the use is granted

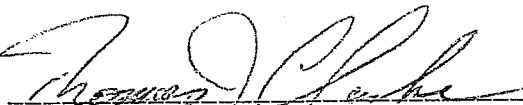
DECISION AND ORDER

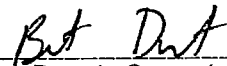
*WHEREFORE, IT IS ORDERED* that the appeal for a Special Permit for use of a structure and land by any department of the federal government, to allow use of the 31,299-square foot structure as a governmental law enforcement agency operated by the United States' Department of Immigration and Customs Enforcement (ICE) involving office and administrative functions, as well as temporary detention and holding of detainees in ICE custody that are on-site for processing, is **denied**.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0 with all Board members present voting in favor thereof.

Signed and entered into record on June 29, 2011.

  
\_\_\_\_\_  
Thomas Clarke, Sr., Vice Chair

  
\_\_\_\_\_  
Bert Drost, Secretary

**ADDITIONAL INFORMATION  
SUBMITTED BY APPLICANT**

Item 7

ZON2011-00137

Capstone Ventures, LLC

315 SW 14<sup>th</sup> Street

August 18, 2011

City Plan & Zoning Commission

LILLIS O'MALLEY OLSON MANNING POSE & VAN DIKE LLP

ATTORNEYS AT LAW  
(ESTABLISHED 1917)

317 SIXTH AVENUE, SUITE 300  
DES MOINES, IOWA 50309-4127

TELEPHONE (515) 243-8157  
FAX (515) 243-3919  
WWW.LILLISOMALLEY.COM

JOHN CONNOLLY, JR. (1891-1975)  
GEORGE E. O'MALLEY (1905-1982)  
JOHN CONNOLLY III (1918-1998)  
BERNARD J. CONNOLLY (1920-1970)  
C.I. MCNUITT (1901-1958)  
STREETAR CAMERON (1957-2008)

RUSSELL J. HANSEN  
RETIRED

WILLIAM J. LILLIS  
MICHAEL W. O'MALLEY  
EUGENE E. OLSON  
DANIEL L. MANNING  
CHRISTOPHER R. POSE  
ADAM C. VAN DIKE  
JOEL B. TEMPLEMAN\*  
BRIDGET O'MALLEY KAUTZKY

\*LICENSED IN IOWA & ILLINOIS

Writer's Direct E-Mail: [dmanning@lolaw.com](mailto:dmanning@lolaw.com)

July 20, 2011

Michael Ludwig  
City of Des Moines  
602 E. 1<sup>st</sup> Street  
Des Moines, IA 50309

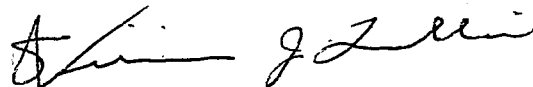
Re: Capstone Ventures, LLC Application (with Attachments)  
for Planned Unit Development

Dear Mr. Ludwig:

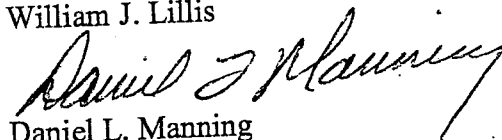
This law firm represents Capstone Ventures, LLC and on their behalf we are submitting this Application for a Planned Unit Development for that property which is locally known as 315 SW 14<sup>th</sup> Street in the City of Des Moines, Iowa. A more precise legal description is enclosed with our client's Application. The purpose for this request is to allow for the development of the property consistent with the underlying zoning (C-3B). In addition, we are requesting that Phase I (northern two (2) acres) of the Planned Unit Development (PUD) will also authorize uses of structures or land by any department of the city, township, county, state or federal Government. One of the reasons for this request in Phase I is to establish that the Planned Unit Development will be consistent with those uses envisioned by the General Services Administration (GSA) found in solicitation no. 11A2011.

We are providing the filing fee with this Application. Please bill us for any additional notice or publication costs after those costs have been tabulated. Thank you for your consideration and if you have any further requests, please advise.

Sincerely,



William J. Lillis



Daniel L. Manning  
For the Firm

DLM:dj  
Enclosures

# REZONING APPLICATION

APPLICATION DUE \_\_\_ or \_\_\_ FOR THE \_\_\_ or \_\_\_ PLAN & ZONING COMMISSION MEETING

## THE FOLLOWING MUST BE COMPLETED AT TIME OF FILING

S-3-11 Enj      (330.00 + 12.00)      ZON2011 - 00137  
Required Pre-application Conference by Name, Date      Rezoning Fee + Notification Cost      Case Number

ALL INFORMATION SHOULD BE TYPED OR HAND-LETTERED IN INK. THE COMPLETED FORM REQUIRED DOCUMENTS AND FILING FEE ARE SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT, ARGONNE ARMORY, 602 ROBERT D RAY DRIVE.

Dist. / Parcel Number(s) ( 020/00169-003-002 )

Geo Parcel Number(s) ( 7824-09-151-002 )

1. Legal Description of Property to be rezoned (or attached hereto):

See legal description attached hereto as Exhibit "A."

2. Street Address: If parcel is vacant, an address can be obtained from the Building Department

315 SW 14th Street, Des Moines, Iowa 50309

3. Size of Property (in acres or square feet): 4.0 acres

4. Present Zoning Classification: C-3B Proposed Zoning Classification: PUD

5. As Owner(s) of this property, the following condition(s) are agreed to as part of this rezoning application:

To be determined during the rezoning process.

6. Description of Project and include a site plan - (Location of existing and/or proposed buildings and parking)

See site plan attached hereto as Exhibits "B-1 and B-2."

7. Applicant: Capstone Ventures, LLC See Authorization form attached hereto as Exhibit "C."

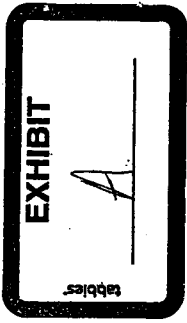
Name	Signature	Date
<u>315 SW 14th Street</u>	<u>Des Moines</u>	<u>Iowa</u>
Address	City	State
<u>515-243-8157</u>		<u>50309</u>
(Area code) phone number		Zip Code

8. Owner (if different from applicant)

Same as Applicant

Name	Signature	Date
Address	City	State
Zip Code		

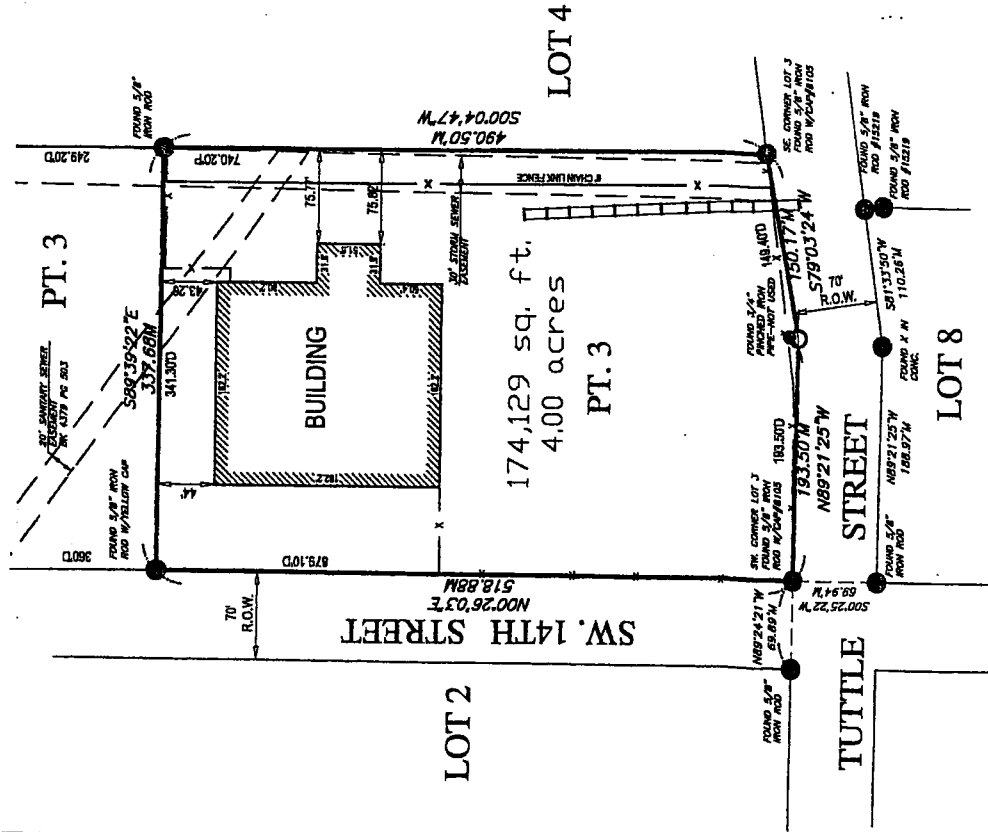
(Area code) phone number



# PLAT OF SURVEY

## RETRACEMENT SURVEY

PREPARED BY: LARRY D. HYLER BISHOP ENGINEERING CO., INC. 3501 104TH STREET URBANDALE IOWA 50322 PH. (515)276-0467



**LEGAL DESCRIPTION:**  
 SHERIFF'S DEED BOOK 6687 PAGE 934  
 LOT THREE (3) IN CENTRAL DES MOINES INDUSTRIAL PARK, AN  
 OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF  
 THE CITY OF DES MOINES, IOWA EXCEPT FOR THE PART  
 THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE  
 NORTHWEST CORNER OF SAID LOT 3, THENCE SOUTH, ALONG  
 THE WEST LINE OF SAID LOT 3, 360 FEET, THENCE EAST, AT  
 RIGHT ANGLES TO THE WEST LINE OF SAID LOT 3, 341.30 FEET,  
 MORE OR LESS TO THE EAST LINE OF LOT 3; THENCE NORTH,  
 ALONG THE EAST LINE OF SAID LOT 3, 248.20 FEET MORE OR  
 LESS TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE  
 NORTHWESTERLY 433.30 FEET TO THE POINT OF BEGINNING,  
 ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF  
 DES MOINES, IOWA AND LOCALLY KNOWN AS 316 SW 14TH STREET,  
 SAID TRACT OF LAND CONTAINS 4.00 ACRES MORE OR LESS.

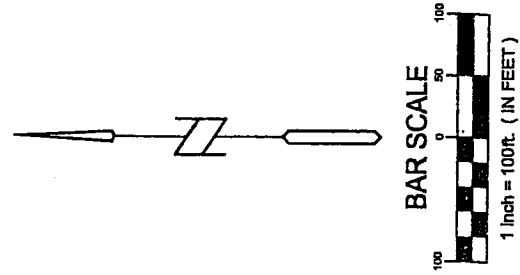
**ADDRESS:**  
 316 SW, 14TH STREET  
 DES MOINES, IOWA 50309

**OWNER:**  
 IOWA STATE BANK  
 E. 7TH & LOCUST  
 DES MOINES, IOWA 50309

**PREPARED FOR:**  
 CAPSTONE VENTURES, LLC  
 ATTN: DOUG SIEDENBURG  
 1250 NW 128TH STREET  
 CLIVE, IOWA 50205

**ZONING:**  
 C-38 (CENTRAL BUSINESS MIXED USE)

- SURVEY LEGEND:**
- SECTION CORNER- FOUND AS NOTED
  - PROPERTY CORNER- FOUND AS NOTED
  - PROPERTY CORNER- PLACED 3/4" IRON PIPE WITH YELLOW PLASTIC CAP ID # 14775
  - M MEASURED DISTANCE
  - P PLATTED DISTANCE
  - D DEEDED DISTANCE
  - P.R.A. PREVIOUSLY RECORDED AS R.O.W. RIGHT-OF-WAY
  - P.O.C. POINT OF COMMENCEMENT
  - P.O.B. POINT OF BEGINNING



**Bishop Engineering**  
 "Training Your Successful Development"  
 3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515)276-0467 Fax: (515)276-0217  
 Civil Engineering & Land Surveying  
 Established 1959

**RETRACEMENT SURVEY**  
 315 SW, 14TH STREET  
 DES MOINES, IOWA 50309

REFERENCE NUMBER: 050243

DRAWN BY: PLD  
 PROJECT NUMBER: 070440  
 SHEET NUMBER: 1 OF 1



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED BY ME AND THE RELATED SURVEY WORK WAS PERFORMED UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA. PAGES COVERED BY THIS SEAL... THIS PAGE ONLY

BY: LARRY D. HYLER  
 LICENSE RENEWAL DATE: DEC. 31, 2008

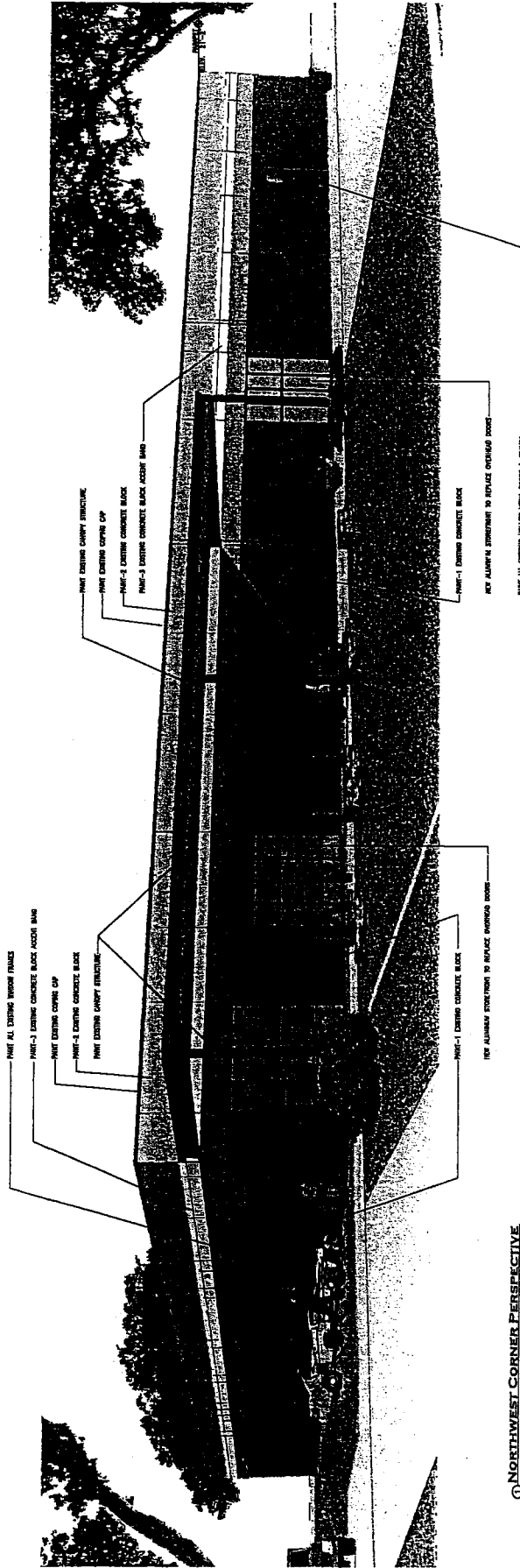
SIGNED: *Larry D. Hyler* DATE: 9-21-07

FIELD WORK COMPLETED ON: 9-16-07, T.R. B.R.





EXHIBIT  
*B-2*  
 Tables



315 SW 14TH STREET  
 DES MOINES, IA  
 07-20-2011

**simonson**  
 SIMONSON & ASSOCIATES ARCHITECTS LLC  
 101 WEST HAWK DR. SUITE 100  
 DES MOINES, IA 50319  
 TEL: 515.281.1515 FAX: 515.281.1516



AUTHORIZATION

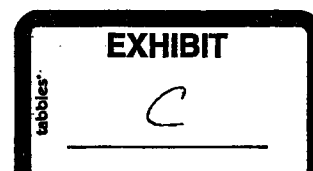
The undersigned, for and on behalf of the Owner, Capstone Ventures, LLC, hereby authorizes the filing of any applications with the City of Des Moines, Iowa for the Capstone Ventures Planned Unit Development (PUD) regarding the proposed development of the property legally described in Exhibit "A" and depicted in Exhibit "B" attached to the Rezoning Application.

The undersigned further authorizes William J. Lillis, Daniel L. Manning and Joel B. Templeman to act for and on behalf of them pursuant to said Rezoning Application.

Dated this 20th day of July, 2011.

CAPSTONE VENTURES, LLC  
315 SW 14<sup>th</sup> Street  
Des Moines, Iowa 50309

By   
William Nielsen, Member



## Planned Unit Development (PUD) - Conceptual Plan Submittal Review Checklist

PUD Name : Capstone Ventures Planned Unit Dev. Date Received: \_\_\_\_\_

PUD Location or Primary Address : 315 SW 14th Street, Des Moines, IA

Project Property Owner \*: Capstone Ventures, LLC Required Filing Fee \*\*: Paid

\*If more than one property owner of record for the proposed project area, then provide additional signature consent to this proposed rezoning project with **Rezoning Application Form**

\*\*The required filing fee amount maybe requested at the pre-application meeting or later by calling 283-4182 for the total fee amount.

(Please verify that all items listed below have been included as part of this submittal by placing a check mark in the space provided for each item. Please note that incomplete submittals will not be processed further for review until )

\_\_\_ Title centered at the top of each sheet or within Title Block:

### Conceptual Plan

\_\_\_ (Project Name)  
a Planned Unit Development  
in the City of Des Moines,  
County of Polk, State of Iowa  
Sheet(s) \_\_\_ of \_\_\_

Amendments to "Conceptual Plans" must include in the title (First Amendment, Second Amendment, etc.) and a summary statement in the text above the signature approval block of what date each amendment and any previous amendments were approved and their respective City Council roll call number or "administrative" as well as what the amendment entailed.

### Sheet 1 : Text

- \_\_\_ 1. Vicinity Map at 1':2000' scale with graphic scale and north arrow.
- \_\_\_ 2. Verification of that proposed PUD tract not less than 2 acres in area, exclusive of streets and alleys including a Legal Description of the PUD Boundary prepared by Licensed Land Surveyor or Engineer including a statement of total PUD area in Acres.
- \_\_\_ 3. Zoning of adjacent property within 250' with boundaries of proposed PUD.
- \_\_\_ 4. Status of proposed project property indicating the "Des Moines 2020 Community Character Plan" future land use map designation.
- \_\_\_ 5. Narrative of general development concept.
- \_\_\_ 6. Proposed timing and phasing of development (List lots per phase area and draw boundaries and number phase areas on Site Plan Sheet 2)
- \_\_\_ 7. Detailed Description of all permitted land uses in including any existing uses to remain.
- \_\_\_ 8. Detailed text describing all bulk standards, architectural design standards, and landscaping/open space requirements enforceable under the PUD.
- \_\_\_ 9. Description of conservation, mitigation, and construction protection measures to be implemented for environmentally significant features.
- \_\_\_ 10. Statement (or attached letter) providing the following : Required pre-application meeting date(s) with Community Development Department and other relevant City Departments as well as details of neighborhood meetings including dates, meeting locations, starting time and length of meeting, statement that conceptual plans (site map and proposed building views) were presented and individuals conducting the meeting.
- \_\_\_ 11. Statement and Certification (or attached letter) by qualified design professional, either an Engineer, a Landscape Architect, or an Architect licensed in the State of Iowa, that all required storm-water management through any variety of acceptable methods including conservation practices and on-site detention, that all necessary surface water drainage erosion control and that all sanitary sewer necessary can all be achieved under the proposed concept to properly serve the proposed development.

### Sheet 2 :Plan Map

- \_\_\_ 1. The boundary line of the proposed PUD district and existing structures labeled with current use that are within 150' on surrounding properties;
- \_\_\_ 2. Topography showing features of the subject property providing existing contours at 2-foot intervals, including major existing natural features;
- \_\_\_ 3. Proposed building footprints with setback dimensions to show that minimum bulk standards established in the text of Sheet 1 are met.
- \_\_\_ 4. Parking areas, access drives, and other impervious surfaces for all proposed buildings and uses.
- \_\_\_ 5. Streets abutting and within 150' of the project parcel and within the proposed development;
- \_\_\_ 6. Conceptual landscaping, planting and open space plan for the entire PUD showing the general location and general type (over-story, ornamental, evergreen, shrub) of proposed landscaping, walks, special paving, fences, walls and other screenings;
- \_\_\_ 7. Location of existing and proposed signs label with size and reference number to elevation figure depicting design and material. (Sheet 4 for non-residential requirements)
- \_\_\_ 8. Dimensions of required peripheral yard setbacks as required by the bulk standards on Sheet 1.
- \_\_\_ 9. Label all common land areas, proposed detention basins, recreation areas, parks, school sites and any other amenities. Indicate in the narrative on Sheet 1 all long term maintenance responsibility of these areas and describe whether any area is to be dedicated to a governmental entity. Provide written acknowledgement of such dedication if entity is not the City;
- \_\_\_ 10. Existing public utility and other easements within 150' of proposed PUD, any proposed easements within PUD area , including access points, overhead utilities and general location of public and private sanitary and storm sewer lines.
- \_\_\_ 11. Location of environmentally significant features and of conservation and protection measures to be implemented such as easements for the following :
  - a. Drainage-ways
  - b. Wetlands
  - c. Endangered species g.
  - d. Ponds
  - e. Floodplains (FEMA and FHAD)
  - f. Sources of noise and hazardous substances (when present)
  - g. Timber (locate all trees over 6" diameter, identify all other unique/dense vegetation
  - h. Sensitive slopes and soils.
- \_\_\_ 13. General locations of proposed parcel boundaries (avoid serial numbering parcels unless necessary for reference of standards because they will likely be different for platting or development plan), total size in acres or square feet of each parcel, location of proposed uses, residential type number of units of each type, total number of units and density per acres
- \_\_\_ 14. External circulation : vehicular, bicycle, and pedestrian access to the project property parcel.
- \_\_\_ 15. Internal circulation : layout including Streets (avoid labeling with names unless extension of existing) , dimension of paved widths, location of separate pedestrian or bikeways and all proposed pavement widths.
- \_\_\_ 16. Legend of all symbols used in the graphical depiction of features.
- \_\_\_ 17. Certification of a Landscape Architect or an Architect licensed in the State of Iowa.

22

**Planned Unit Development (PUD) - Conceptual Plan Submittal Review Checklist**

**Sheet 3 : Proposed Conceptual Building Exterior Designs**

- 1. Architectural elevations showing number of stories, general exterior design and building materials (including colors), dimensions of all proposed buildings and accessory structures for the PUD certified by an Architect licensed in the State of Iowa.
- 2. Elevations depicting dimensions and general exterior design and construction materials for all proposed residential signage, constructed walls, and fencing.

**Sheet 4 : Non-Residential Proposed Signage Plan**

- 1. Elevations of proposed non-residential structures (including dimensions, placement on building/s) showing wall signage and type of sign for all sides of all proposed buildings types.
- 2. Project signage elevations showing size, dimensions and showing use of proposed building materials colors (brick, stone, textured block, etc.) incorporated within the design of the project sign.
- 3. Non-project free-standing pole or monument sign elevations showing size, dimensions and showing use of proposed building materials colors (brick, stone, textured block, etc.) incorporated within the design of the free-standing pole or monument signs.
- 4. General note stating the zoning district standards used for all other miscellaneous (window signs, private directional signs, signs on canopies, directional signs, service sign and building ) signs types and other special sign limitations.

The submittal will require the completed **Rezoning Application Form** if property is being rezoned in conjunction with the Conceptual Plan approval or amendment, Otherwise amendments.

**10 sets folded** (24" x 36" folded down to 8 1/2" x 12" size) copies of **Sheet 1** (Text), **Sheet 2** (Plan Map) and **Sheet 3** (Proposed Building Exterior Designs) for residential PUD submittals.

**Two (2) folded** (24" x 36" folded down to 8 1/2" x 12" size) copies of **Sheet 4** (Non-Residential Proposed Signage Plan).

**One (1) folded** (down to 8 1/2" x 11") copy of an 11" x 17" reduction of **Sheets 1-4**.

**Fees** (including applicable rezoning fee, Conceptual Plan amendment fee, comprehensive plan amendment fee, and notification costs)

**(Note: Maximum Sheet submittal size no larger than 24 inches by 36 inches)**

As applicant for this project, I hereby ensure that all of above requirements have been included with this submittal. I fully understand that if any of the items listed on this checklist have been excluded the documents will NOT be distributed for City review. In addition, I understand that the fee paid to submit this application is non-refundable.

Subject Property Owner Signature : Signature attached

Date : 7/20/2011

Subject Property Owner Name (Please Print) : Capstone Ventures, LLC

Phone : 515 - 243-8157  
(Area Code) (Phone Number)

CONCEPTUAL PLAN FOR CAPSTONE VENTURES, LLC  
A PLANNED UNIT DEVELOPMENT IN THE  
CITY OF DES MOINES, COUNTY OF POLK, STATE OF IOWA

**SHEET 1: Text**  
**Narrative in Support of Application for a Planned Unit Development**

The Applicant, Capstone Ventures, LLC, is the owner of a four acre parcel of land locally known as 315 S.W. 14<sup>th</sup> Street in the City of Des Moines, Iowa. The property lies at the northeast corner of the intersection of SW 14<sup>th</sup> Street and Tuttle in the City of Des Moines, Iowa. The property is currently zoned C-3B and the parcel is designated as support commercial under the Des Moines 2020 Community Character Plan.

The Applicant proposes that the uses for this PUD shall be those uses permitted within C-3B (Central Business Mixed Use District) as set out in Division 21B, Section 134-1006 of the City of Des Moines Zoning Ordinance. In addition, the Applicant proposes that exclusively within Phase I of the Planned Unit Development (PUD) those uses of structures or land by any department of the City, Township, County, State or Federal Government will be principally permitted uses.

In support of this Application, we submit to you the following:

1. **VICINITY MAP**  
See the Vicinity Map attached hereto and marked as Exhibit "A";
2. **TRACT OF THE PUD**  
See the Plat of Survey attached hereto and marked as Exhibit "B";
3. **ZONING OF THE ADJACENT PROPERTY**  
See the zoning map attached hereto and marked as Exhibit "C";
4. **PROPERTY IN RELATION TO THE DES MOINES 2020 CHARACTER PLAN**  
See the Des Moines 2020 Character Plan Map attached hereto and marked as Exhibit "D";
5. **PERMITTED USES WITHIN PUD.** The Applicant proposes that the uses for this PUD shall be those uses permitted within C-3B (Central Business Mixed Use District) as set out in Division 21B, Section 134-1006 of the City of Des Moines Zoning Ordinance. In addition, the Applicant proposes that exclusively within Phase I of the Planned Unit Development (PUD) those uses of structures or land by any department of the City, Township, County, State or Federal Government will be principally permitted uses.

6. **BULK STANDARDS, ARCHITECTURAL STANDARDS, LANDSCAPING AND OPEN SPACE REQUIREMENTS**

See attached proposed standards marked as Exhibit "E";

7. **ENVIRONMENTALLY SENSITIVE FEATURES**

No known environmentally sensitive features have been identified. However, all standard protective measures will be followed in the development of this tract.

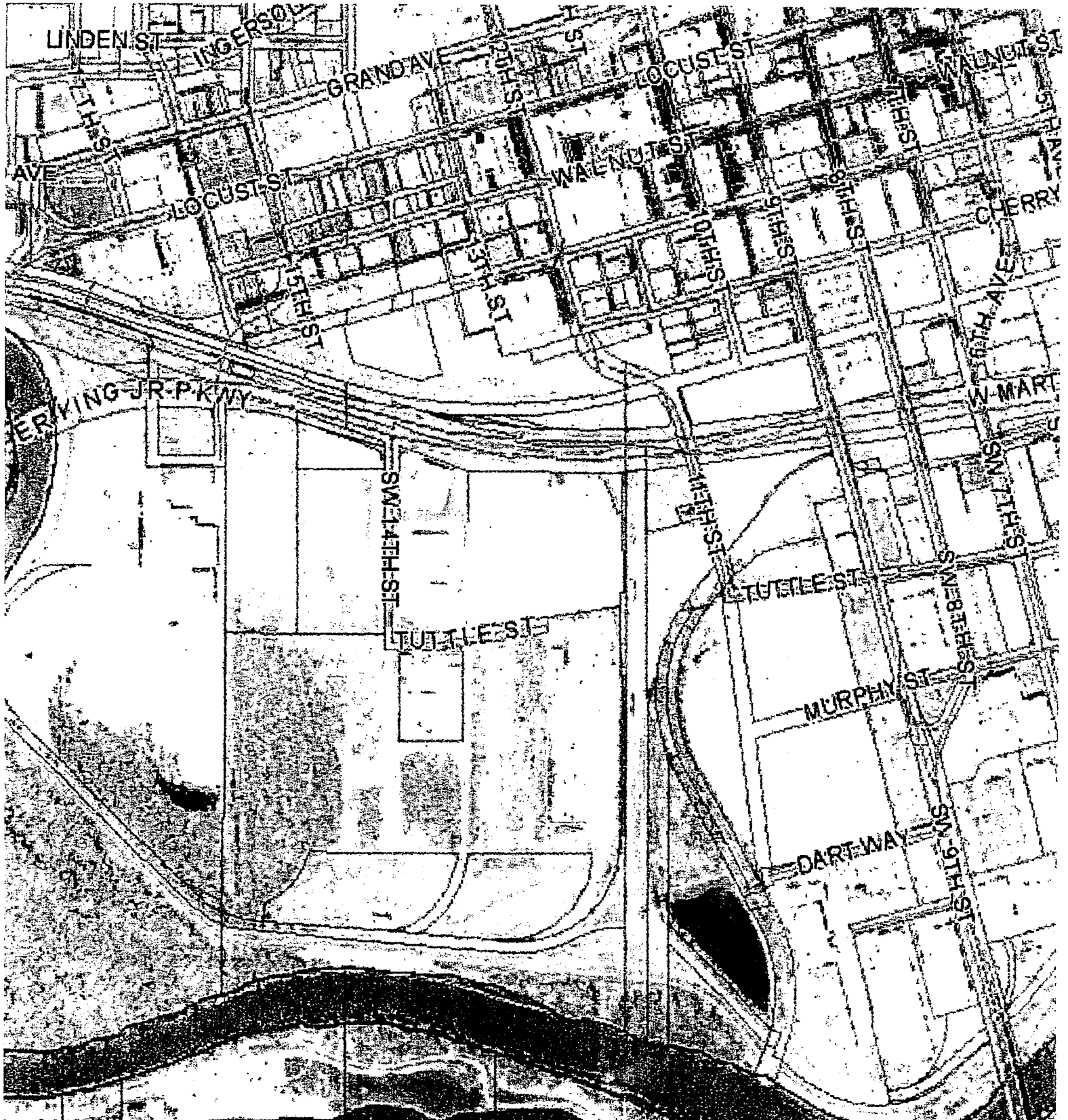
8. **PRE-APPLICATION MEETING DATE**

See attached email from City of Des Moines Staff member, Ryan Moffitt attached hereto and marked as Exhibit "F".

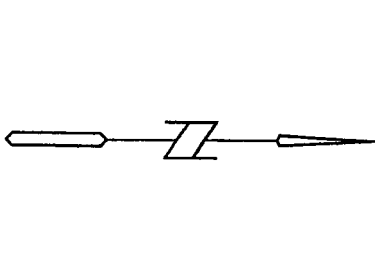
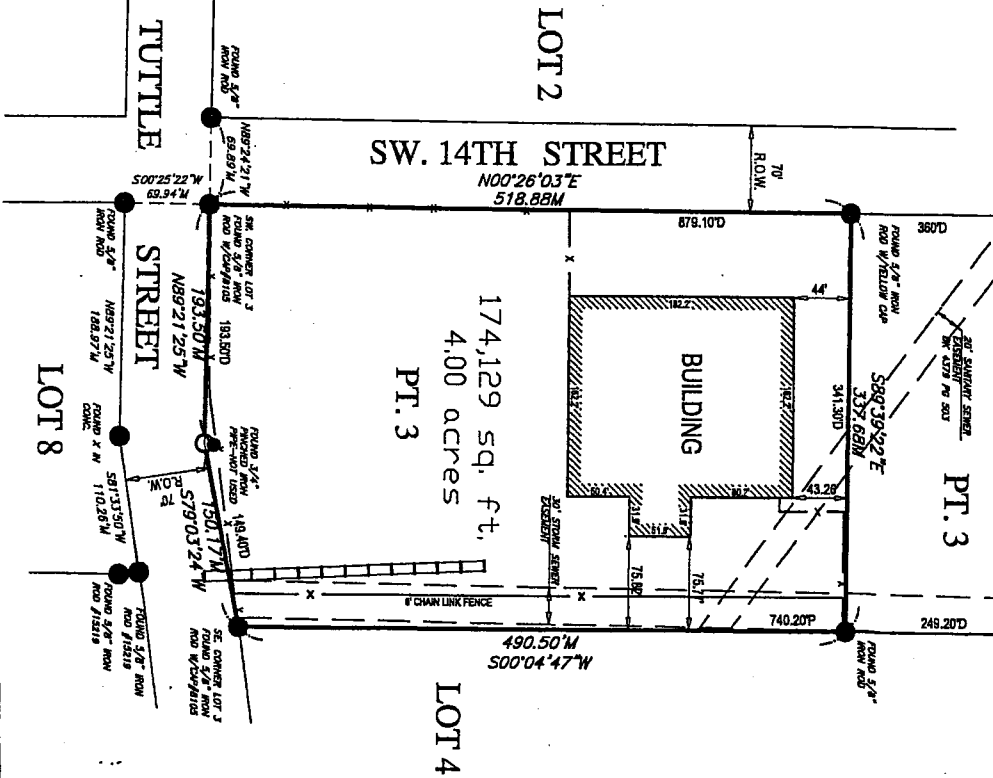
Neighborhood meetings will be scheduled in accordance with requirements imposed by the City.



# EXHIBIT A



# PLAT OF SURVEY RETRACEMENT SURVEY



**LEGAL DESCRIPTION:**

SHERIFF'S DEED BOOK 697 PAGE 934  
 LOT THREE (3) IN CENTRAL DES MOINES INDUSTRIAL PARK AN  
 OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF  
 THE CITY OF DES MOINES, IOWA EXCEPT FOR THE PART  
 THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE  
 NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTH, ALONG  
 THE WEST LINE OF SAID LOT 3, 360 FEET; THENCE EAST, AT  
 RIGHT ANGLES TO THE WEST LINE OF SAID LOT 3, 341.30 FEET,  
 MORE OR LESS TO THE EAST LINE OF LOT 3; THENCE NORTH,  
 ALONG THE EAST LINE OF SAID LOT 3, 248.20 FEET MORE OR  
 LESS TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE  
 NORTHWESTERLY 43.30 FEET TO THE POINT OF BEGINNING.  
 ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF  
 DES MOINES, IOWA, AND LOCALLY KNOWN AS 315 SW 14TH STREET,  
 DES MOINES, IOWA.  
 SAID TRACT OF LAND CONTAINS 4.00 ACRES MORE OR LESS.

**ADDRESS:**

315 SW 14TH STREET  
 DES MOINES, IOWA 50309

**PREPARED FOR:**

CARBONE VENTURES, LLC  
 ATTN: DOUG SIEBERLING  
 1250 NW 128TH STREET  
 CLIVE, IOWA 50265

**OWNER:**

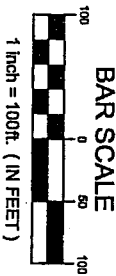
IOWA STATE BANK  
 E 7TH & LOCUST  
 DES MOINES, IOWA 50309

**ZONING:**

C-38 (CENTRAL BUSINESS MIXED USE)

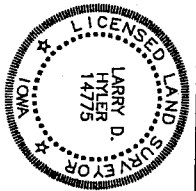
**SURVEY LEGEND:**

- SECTION CORNER- FOUND AS NOTED
- PROPERTY CORNER- FOUND AS NOTED
- PROPERTY CORNER- PLACED 3/4" IRON PIPE WITH YELLOW PLASTIC CAP ID # 14775
- M MEASURED DISTANCE
- P PLATTED DISTANCE
- D DEEDED DISTANCE
- P.R.A. PREVIOUSLY RECORDED AS
- R.O.W. RIGHT-OF-WAY
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED BY ME AND THE RELATED SURVEY WORK WAS PERFORMED UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA. PAGES COVERED BY THIS SEAL... THIS PAGE ONLY.  
 BY: LARRY D. HYLER LICENSE RENEWAL DATE: DEC. 31, 2008  
 SIGNED: *Larry D. Hyler*  
 DATE: 9-21-02

FIELD WORK COMPLETED ON: 9-15-07, T.R. B.B.



**EXHIBIT B**

315 SW. 14TH STREET  
 DES MOINES, IOWA 50309

RETRACEMENT SURVEY

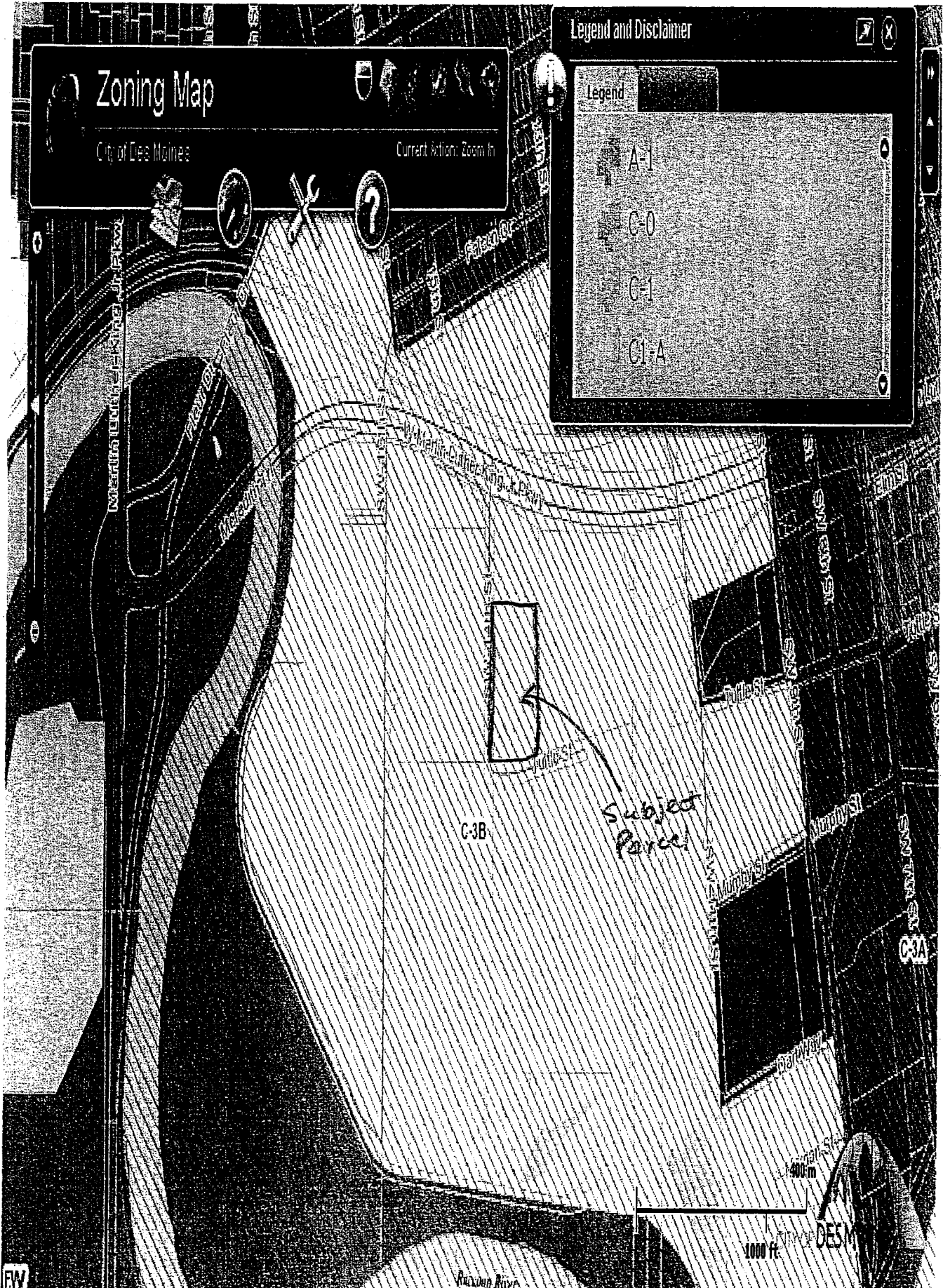
DRAWN BY: \_\_\_\_\_  
 PLO: \_\_\_\_\_  
 PROJECT NUMBER: 070440  
 SHEET NUMBER: 1 OF 1

REFERENCE NUMBER: 030243

**Bishop Engineering**  
 "Planning Your Successful Development"

3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515)276-0467 Fax: (515)276-0217





**EXHIBIT C**

# DES MOINES' 2020 COMMUNITY CHARACTER PLAN DOWNTOWN AREA

## LEGEND

**TRADITIONAL INDUSTRIAL**

**PARK/OPEN SPACE**

The following only applies to "D-R" Downtown Riverfront District zoned areas. May include retail and commercial establishments that encourage the public's use of the riverfront

**PUBLIC/SEMI-PUBLIC**

Uses such as government facilities, schools, and hospitals

**DOWNTOWN**

**RETAIL/OFFICE CORE/CORE FRINGE**

Intended to serve as an extension of the High density, compact, pedestrian-oriented shopping, office and financial area in the heart of downtown Des Moines

**SUPPORT COMMERCIAL**

General businesses, retail and service establishments, limited high density residential, mixed use developments, and work centers that support the downtown core providing their own off-street parking

**HIGH AMENITY OFFICE/INSTITUTIONAL**

Uses are intended to strengthen and complement the facilities in the retail and office core area and to provide buildings for office, institutional, cultural, recreational, and hotels

**INTENSIVE, MIXED USE OFFICE/RESIDENTIAL**

Intended to accommodate mixtures of office, residential, parking and retail facilities developed intensively in a planned, large-scale project

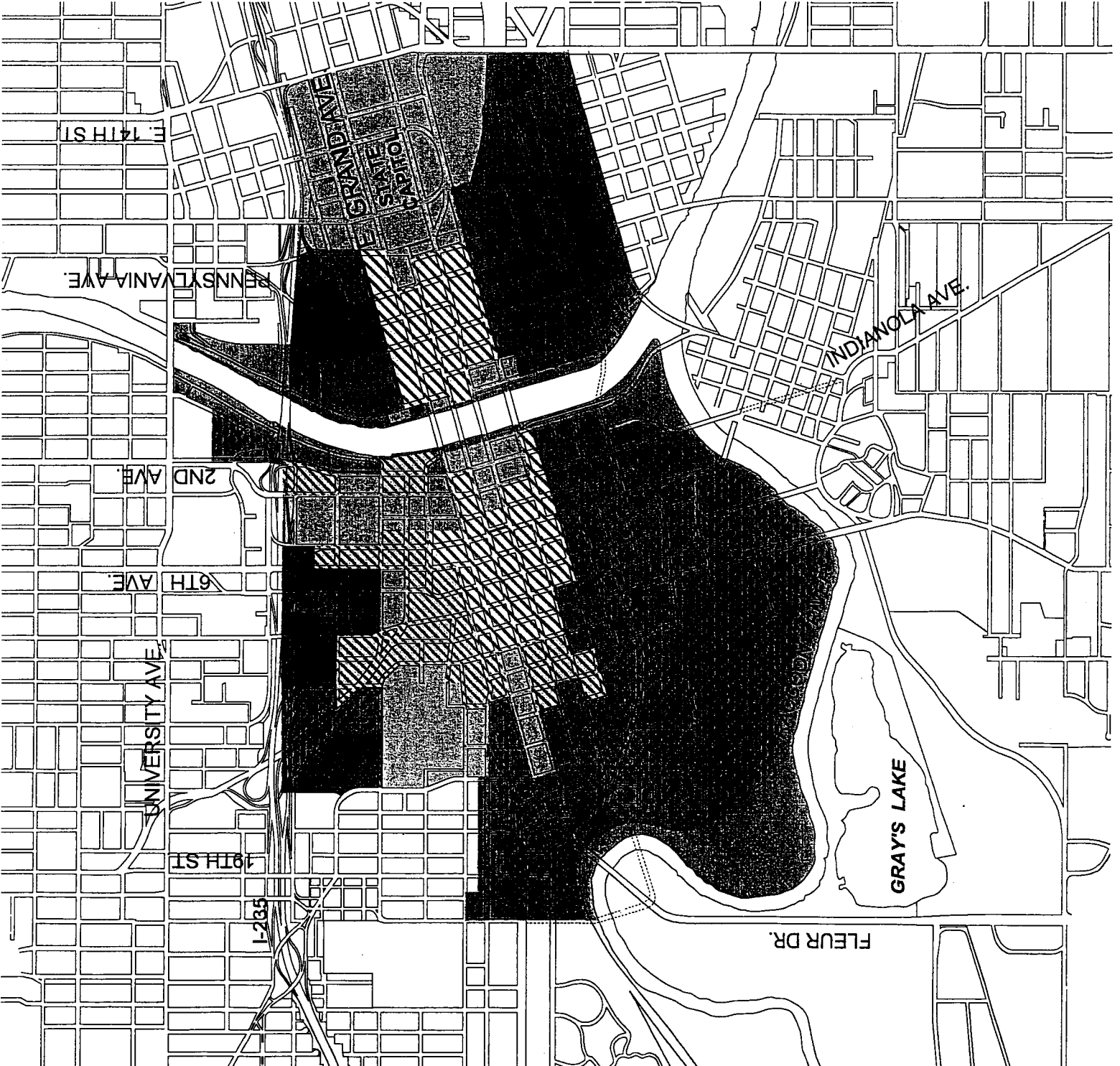
**HIGH DENSITY RESIDENTIAL/LIMITED COMMERCIAL**

Adopted by: Des Moines City Council  
Roll Call Number: 00-3341  
Date: August 17, 2000  
Amendments:  
Map has been revised per amendments through January 24, 2011



Prepared by:  
Des Moines Community Development Department  
Planning and Urban Design Division

# EXHIBIT D



Sec.. 82-214.7. Design Guidelines within D-R and C-3B Districts.

(b) In acting upon any site plan application for property located within the D-R downtown riverfront district or C-3B central business mixed-use district, the plan and zoning commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulation and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district, then these guidelines shall apply only to the expansion of the building.

- (1) Building Heights. New buildings shall be the lesser of 36 feet or three stories.  
Building Height limitations will not affect existing structures
- (2) Lighting. All new exterior lighting upon private property shall be pedestrian in scale.
- (3) Commercial building standards. New commercial buildings should also comply with the following guidelines:
  - a. New buildings shall have a frontage on the principal street of not less than 70 percent of the lot frontage on the principal street. This requirement shall not apply to existing structures.
  - b. A minimum of 70 percent of the building frontage will be set within one foot of the front lot line. This requirement shall not apply to existing structures.
  - c. Service entrances, waste disposal areas and other similar uses will be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.
- (1) Storage of any and all materials and equipment will take place within completely enclosed buildings. All open areas will be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters will be enclosed on all sides by the use of a permanent wall of wood, brick or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, will be constructed to provide at least a 75% opaque screen of the receptacle from any street.
- (2) All open areas not used for off-street loading or parking will be landscaped in accordance with the Des Moines Landscape Standards. (See Site Plan Landscape Policies).
- (3) Access doors for any warehouse use and any loading docks will not front on any public street. That portion of a building fronting on a public street will be used in an office or other commercial use.

## Dan Manning

---

**From:** Moffatt, Ryan L. [RLMoffatt@dmgov.org]  
**Sent:** Tuesday, April 26, 2011 12:36 PM  
**To:** Dan Manning  
**Subject:** RE: Scanned image from Connolly Law  
**Attachments:** 315 SW 14th Street.doc

Dan, I have you down for the 1:30 pm timeslot on Tuesday, May 3<sup>rd</sup>. Attached are the previous pre-application meeting minutes pertaining to the building reuse and site improvements for a distribution and office building.

Thanks,

**Ryan Moffatt, AICP**  
City Planner  
City of Des Moines Community Development  
Permit and Development Center  
ph\_515-283-4975  
fax\_515-283-4270  
[rlmoffatt@dmgov.org](mailto:rlmoffatt@dmgov.org)



---

**From:** Dan Manning [mailto:dmanning@lolaw.com]  
**Sent:** Tuesday, April 26, 2011 9:26 AM  
**To:** Moffatt, Ryan L.  
**Cc:** Doug Siedenburg; capstonebill@qwest.net  
**Subject:** FW: Scanned image from Connolly Law

Ryan:

I have attached the pre-application conference request form for our client Capstone Ventures, LLC.

We ask that you set our pre-application meeting for 1:30 pm on May 3, 2011.

Further, we ask that you provide us with a copy of the minutes of the pre-application meeting concerning the same use in the River Point Business Park.

Thank you,

Dan

## Daniel L. Manning

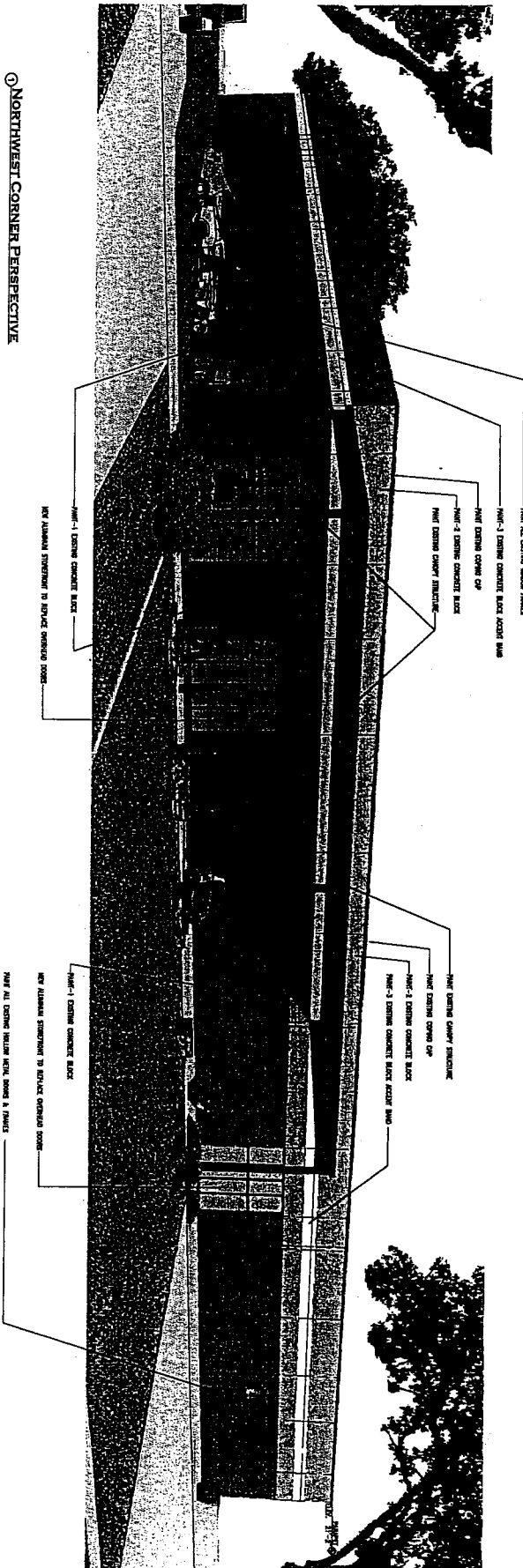
*Lillis O'Malley Olson Manning Pose & Van Dike LLP*  
317 - 6th Ave., Suite 300  
Des Moines, IA 50309  
515-243-8157  
515-243-3919

**EXHIBIT F**

CONCEPTUAL PLAN FOR CAPSTONE VENTURES, LLC  
A PLANNED UNIT DEVELOPMENT IN THE  
CITY OF DES MOINES, COUNTY OF POLK, STATE OF IOWA

**SHEETS 2, 3 and 4: Plan Map; Conceptual Exterior Design; and Proposed Signage**





① NORTHWEST CORNER PERSPECTIVE

THE INFORMATION CONTAINED  
 HEREIN IS FOR GENERAL INFORMATION  
 ONLY AND IS NOT TO BE USED AS A  
 CONTRACT DOCUMENT. THE USER  
 ASSUMES ALL LIABILITY FOR THE  
 ACCURACY AND COMPLETENESS OF  
 THE INFORMATION CONTAINED  
 HEREIN. THE USER SHALL INDEMNIFY  
 AND HOLD HARMLESS THE ARCHITECT  
 FROM AND AGAINST ALL CLAIMS,  
 DAMAGES, LOSSES AND EXPENSES,  
 INCLUDING REASONABLE ATTORNEY'S  
 FEES, ARISING OUT OF OR RESULTING  
 FROM THE USE OF THE INFORMATION  
 CONTAINED HEREIN.

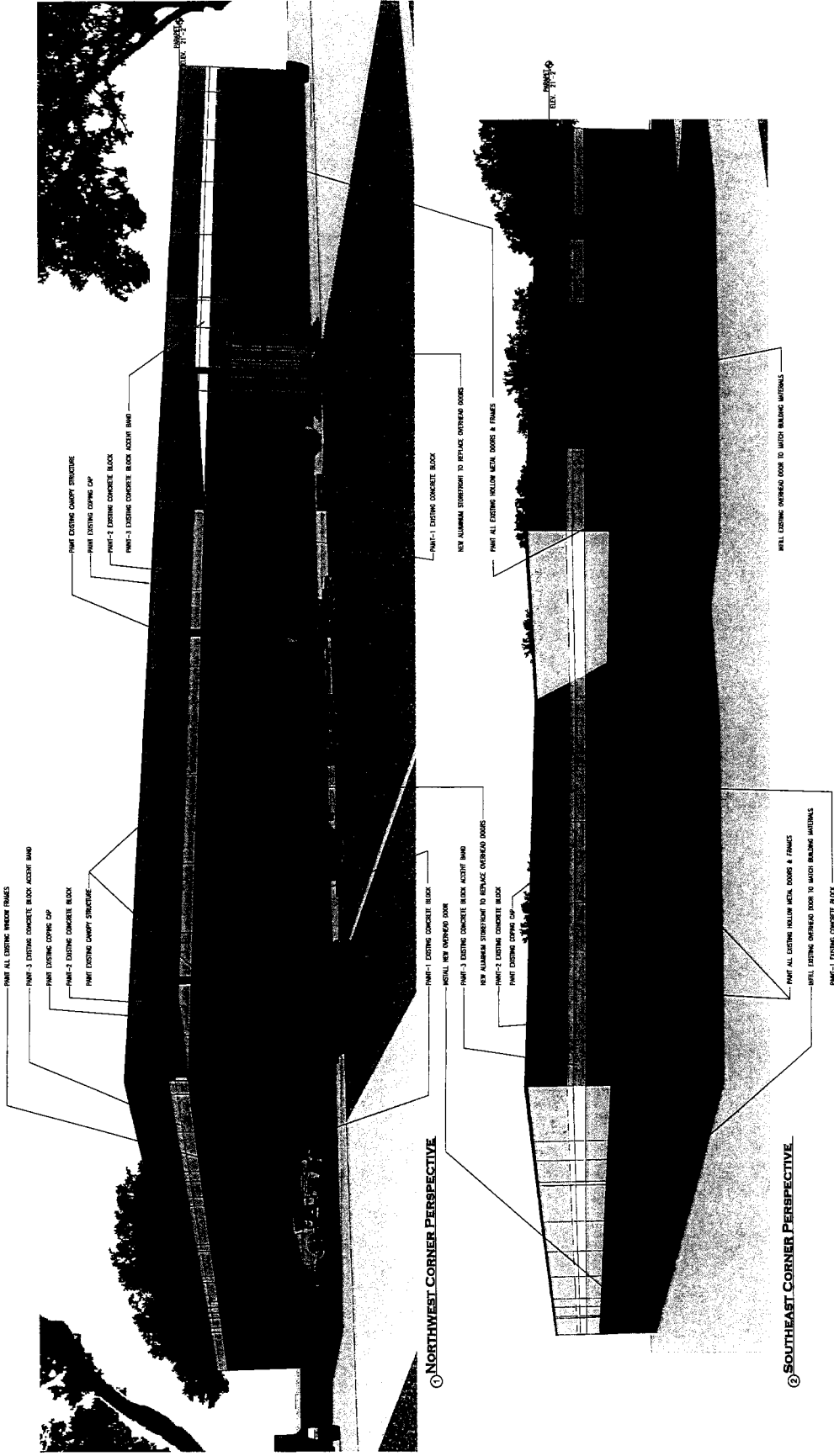
**315 SW 14TH STREET**  
**DES MOINES, IA**  
 07-20-2011



**simonson**  
 ARCHITECTS & ASSOCIATES ARCHITECTS LLC  
 677 Northwest Tower Suite 1000 Des Moines IA 50319  
 515 266 1518 www.simonsonarch.com







**simonson**  
 SIMONSON & ASSOCIATES ARCHITECTS LLC  
 277 HIGHLAND AVENUE, SUITE 200  
 DES MOINES, IA 50319  
 PH: 515.281.5158 FAX: 515.281.5159



**315 SW 14TH STREET**  
**DES MOINES, IA**  
 08-10-2011

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