

Date..... October 24, 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;

WHEREAS, on August 29, 2011 by Roll Call No. 11-1445, the City Council set a public hearing on the proposed rezoning for September 26, 2011 at 5:00 p.m. in Council Chamber, City Hall, Des Moines, Iowa;

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

WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on September 15, 2011, setting forth the time and place for hearing on the proposed rezoning;

WHEREAS, attorneys for applicant Capstone Ventures, LLC filed with the Mayor and City Council a written request that the public hearing scheduled for September 26, 2011 be continued until the City Council meeting on October 24, 2011;

WHEREAS, on September 26, 2011 by Roll Call No. 11-1669, the City Council opened the public hearing and resolved to continue the public hearing on the proposed rezoning of the property from the C-3B to a PUD District classification until October 24, 2011 at 5:00 p.m. in Council Chambers at City Hall, Des Moines, Iowa;

WHEREAS, attorneys for applicant Capstone Ventures, LLC filed with the Mayor and City Council a further request to continue the public hearing on the proposed rezoning until December 5, 2011 at 5:00 p.m. in Council Chambers at City Hall, Des Moines, Iowa.

(Continued on Page 2)

Date October 24, 2011

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the public hearing is opened and the hearing on the proposed rezoning is continued until December 5, 2011 at 5:00 p.m. in Council Chambers at City Hall, Des Moines, Iowa.

Moved by \_\_\_\_\_ to adopt, and to continue the hearing until December 5, 2011 at 5:00 p.m.

FORM APPROVED:



Michael F. Kelley  
Assistant City Attorney

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

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

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

★ Roll Call Number

11-1669

F. U.  
10-24-11  
Agenda Item Number 57  
52

Date September 26, 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 Siedenburg (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;

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WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on September 15, 2011, setting forth the time and place for hearing on the proposed rezoning;

WHEREAS, attorneys for applicant Capstone Ventures, LLC have filed with the Mayor and City Council a written request that the public hearing scheduled for September 26, 2011 be continued until the City Council meeting on October 24, 2011.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the public hearing on the proposed rezoning of the property from the C-3B to a PUD District classification is hereby opened, and CONTINUED until October 24, 2011 at 5:00 p.m. in Council Chambers at City Hall, Des Moines, Iowa.

Moved by Hensley to adopt, and to continue the public hearing until October 24, 2011.

FORM APPROVED:

[Signature]  
Michael F. Kelley, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

[Signature] Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature] City Clerk

LILLIS O'MALLEY OLSON MANNING POSE & VAN DIKE LLP

ATTORNEYS AT LAW  
(ESTABLISHED 1917)

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C.I. McNUTT (1901-1958)  
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\*LICENSED IN IOWA & ILLINOIS

Writers' Direct E-mail: [willis@lolaw.com](mailto:willis@lolaw.com)

October 18, 2011

**Via Hand Delivery**

Mayor Franklin Cownie and  
Members of the Des Moines City Council  
City Hall  
400 Robert D. Ray Drive  
Des Moines, IA 50309-1891

Attention: Ms. Diane Rauh, City Clerk

Subject: Capstone Ventures, LLC – Request for Rezoning on Property at  
315 SW 14<sup>th</sup> Street – Public Hearing

Dear Mayor and Members of the Des Moines City Council:

Our law firm represents Capstone Ventures, LLC (hereafter "Capstone") regarding property at 315 SW 14<sup>th</sup> Street in the City of Des Moines, Iowa.

On the City Council Agenda for Monday, October 24, 2011, is a request to rezone the above identified property from "C-3B" (Central Business District Mixed Use District) to "PUD" (Planned Unit Development).

The Public Hearing is scheduled for the aforementioned matter at your Monday, October 24, 2011 meeting at 5:00 p.m.

The purpose of this letter is to request, in writing, that the Public Hearing be continued (due to the pending litigation in Polk County District Court between Capstone and the City) from the aforementioned meeting to your regular scheduled meeting of Monday, December 5, 2011.

The undersigned will be present to respond to questions, if any, regarding the above request.

Very truly yours,

William J. Lillis  
For the Firm

WJL/sam

cc: Michael Kelley, Assist. City Manager  
Michael Ludwig, Planning & Zoning Comm.  
Richard Clark, City Manager  
Doug Siedenburg  
William Nielsen

FILED  
2011 OCT 18 PM 4:08  
CITY CLERK  
DES MOINES, IA