

Date June 9, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 15, 2008, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Central Iowa Developers, L.C. (owner) represented by William Kline (officer) to rezone property located at 5100 NE 38th Avenue from "A-1" Agricultural District to "PUD" Planned Unit Development and approval of the Brook Run North PUD Concept Plan, as presented at the hearing subject to the following conditions:

1. Prohibition of the following "C-1" District uses from Parcel D.
 - a. Gas stations/ convenience stores.
 - b. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - c. Package goods stores for the sale of alcoholic beverages.
 - d. Pawn shops.
2. Replacement of notes pertaining to the "Low/Medium Density Residential" and "Medium Density Residential" bulk standards and permitted uses with a note that states Density ranges are provided but "the design, building placement and overall density will be determined by future Concept Plan amendments."
3. Provision of a temporary turnaround for emergency apparatus on the north end of the north/south streets.
4. Provision of a trip generation analysis by the developer prior to any preliminary subdivision plat approval. Contribution to necessary improvements of NE 38th Avenue as determined necessary by the analysis.
5. Submission of a tree preservation and mitigation plan locating all trees greater than 6 inches in diameter on the site for review and approval by City staff at the time of platting and prior to the commencement of any tree removal, grading or construction activity.
6. Provision of a minimum of 2 overstory trees, 2 evergreen trees, 6 understory trees and 8 shrubs for every 100 lineal foot of frontage in the NE 38th Avenue landscape buffer.
7. Addition of notes discussing the feasibility of providing sanitary and storm water facilities in the development to the satisfaction of the City Engineer.
8. Identification of approximate location of storm water management facilities to the satisfaction of the City Engineer.
9. Identification of approximate locations of any existing easements and all proposed easements to the satisfaction of the City Engineer.
10. Building materials and roof design for outbuildings and dumpster enclosures shall match principle building materials and include architectural detailing on all sides viewable from public streets.

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11. Outbuildings associated with multiple-family residential developments and dumpster enclosures are prohibited from fronting NE 38th Avenue or NE 56th Street.
12. Parcel D be shifted to a location approximately 250' north of the NE 38th Avenue and NE 56th Street intersection;
13. Transition of density from existing and proposed low density residential along the west and south boundaries.

The subject property is more specifically described as follows:

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

Commencing as a point of reference at the SW corner of the SE 1/4 of the SE 1/4 of said Section 22, thence N00°27'04"W, 33.00 feet to a point on the north right-of-way line of NE 38th Avenue, said point being the point of beginning; thence N89°35'06"W, 56.92 feet along said north right-of-way line to a point; thence N00°24'35"E, 1309.70 feet to a point on the north line of the S 1/2 of the SE 1/4 of said Section 22; thence N89°41'50"E, 981.47 feet along said north line to a point on the west right-of-way line of NE 55th Way; thence southerly along a curve to the right having a radius of 1112.90 feet, a chord bearing of S06°29'01"E, an arc length of 262.57 feet along said west right-of-way line to a point; thence S04°55'27"E, 152.10 feet along said west right-of-way line to a point; thence S25°00'57"E, 169.80 feet along said west right-of-way line to a point; thence S64°28'27"E, 234.40 feet along said west right-of-way line to a point on the west right-of-way line of NE 56th Street; thence S00°16'33"W, 251.14 feet along said west right-of-way line to a point; thence S07°52'14"W, 75.66 feet along said west right-of-way line to a point; thence S00°16'33"W, 228.80 feet along said west right-of-way line to a point; thence S44°25'25"W, 93.13 feet along said west right-of-way line to a point on the north right-of-way line of NE 38th Ave; thence S88°40'58"W, 1182.33 feet along said north right-of-way line to the point of beginning and containing 35.038 acres, more or less, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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★ Roll Call Number

08-993

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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 June 23, 2008, 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 Hensley to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown
Assistant City Attorney

(ZON2008-00020)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin 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.

Diane Rauh

City Clerk