

Date August 25, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 17, 2008, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from Clancy Sullivan (purchaser) and A&C Properties, Inc. and David and Sybil Nelson (owners) to rezone property located at 4529 and 4539 Douglas Avenue from "C-O" Commercial-Residential District and "R1-60" One-Family Low Density Residential District to "PUD" Planned Unit Development to allow redevelopment of the property for the PAT Brokerage PUD Conceptual Plan including commercial office and retail uses; and

WHEREAS, due notice of said hearing was published in the Des Moines Register on July 31, 2008, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

Except beginning at the Southwest Corner thence North 4.12 feet, East 61.04 feet, Northeast 39.07 feet to East Lot Line, South 5.68 feet, West 100.08 feet to Point of Beginning- Lot 17 and all Lot 18 Kimble Acres, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "C-O" Commercial-Residential District and "R1-60" One-Family Low Density Residential District to "PUD" Planned Unit Development classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

1. No removal of trees over six inches in diameter from the subject property until an approved tree removal/ protection and mitigation plan is reviewed as part of any Development Plan for commercial development.
2. Addition of language on the Conceptual Plan that would require identification of species and tree protection measures on any Development Plan for the trees identified for protection, and identification of species and mitigation of trees to be removed using formulas currently being considered by the City Council for all large scale developments.
3. Elimination of "possible" language on the Conceptual Plan for cross drive access and storm sewer connections with the adjoining bank property to the east.
4. Addition of language on the Conceptual Plan that trash enclosures be comprised of materials compatible with the primary building architecture and should be constructed of a durable material such as stone or masonry with an opaque metal gate enclosure.
5. Addition of language on the Conceptual Plan to indicate that all signage is to conform to standards as applicable to "C-O" for the north building and as applicable to "C-1" Districts for


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- the south building along Douglas Avenue. This should be qualified to state “except as modified by the approved Conceptual Plan elevations”.
6. Prohibition of the use of packaged goods stores for the sale of alcoholic beverages, pawn shops, upholstery shops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles. Language should be added to the Conceptual Plan listing the prohibited uses.
 7. The signage on the 2nd floor of the buildings shall have individual lettering.
 8. Lighting levels on the subject property shall be zero foot candles beginning at a point 40’ from the north property line.
 9. The developer shall consider providing detention on south side of the northernmost building.
 10. The northernmost row of parking shall be eliminated.
 11. A pedestrian access to the northernmost building shall be provided from Douglas Avenue.
 12. The southernmost parking lot shall connect to the Wells Fargo entrance driveway.
 13. The Final Development Plan shall be reviewed by the Plan and Zoning Commission for compliance with the Conceptual Plan.
 14. The applicant shall consider use permeable pavement if possible.
 15. The consulting engineer shall provide a written certification to city staff that all improvements have been installed according to the approved Final Development Plan.
 16. The church access to Sherman Boulevard to be chained off or gated during non-church events.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to “PUD” Planned Unit Development are hereby overruled, and the hearing is closed.

MOVED by Vlassis to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. The PUD Development Plan will be approved by the Community Development Department, and then forward back to the Plan and Zoning Commission for their approval. Item 16 in the listed conditions will be removed.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

* Council Member Coleman declares a conflict of interest and abstains from voting.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
* COLEMAN				
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	6			

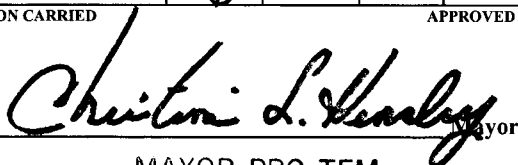
MOTION CARRIED

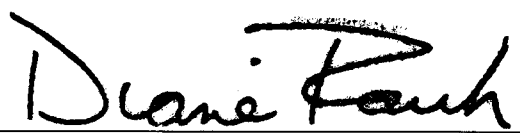
APPROVED

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.


 Chritini L. Hensley
 Mayor
 MAYOR PRO TEM


 Diane Rauh
 City Clerk