



Roll Call Number

13-0594

Agenda Item Number

46B

Date April 8, 2013

WHEREAS, on March 25, 2013, by Roll Call No. 13-0461, the City Council duly resolved to consider a request by First Equity Property Holdings – Acquisitions Fund II, LLC to rezone certain property located in the vicinity of 2303 Merle Hay Road from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District to PUD Planned Unit Development District classification, and to approve the proposed PUD Conceptual Plan for such property, and that such proposal be set down for hearing on April 8, 2013, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on March 28, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the property located in the vicinity of 2303 Merle Hay Road, more fully described as follows (the "Property"):

LOTS 2, 3, 4, 5, 6, 7, 8 AND 9 IN NEIMAN PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, AND, AN IRREGULAR SHAPED PORTION OF LOTS 10, 17, 18, 19, 20, 21 AND A IN SAID NEIMAN PLACE, MORE ACCURATELY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 89°(DEGREES) 36' (MINUTES) 00" (SECONDS) EAST ALONG THE NORTH LINE OF SAID LOT 2 AND ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 250.00 FEET TO THE EAST LINE OF SAID LOT 21; THENCE SOUTH 00°17'15" WEST ALONG THE EAST LINE OF SAID LOT 21, A DISTANCE OF 100.00 FEET TO THE NORTH LINE SAID LOT A; THENCE SOUTH 89°36'00" EAST ALONG THE NORTH LINE OF SAID LOT A, A DISTANCE OF 11.66 FEET; THENCE SOUTH 00°15'00" WEST, A DISTANCE OF 50.00 FEET TO THE NORTH LINE OF SAID LOT 17; THENCE SOUTH 89°36'00" EAST ALONG THE NORTH LINE OF SAID LOT 17, A DISTANCE OF 38.24 FEET TO THE NORTHEAST CORNER OF SAID LOT 17; THENCE SOUTH 00°12'25" WEST ALONG THE EAST LINE OF SAID LOT 17, A DISTANCE OF 99.89 FEET; THENCE NORTH 89°36'15" WEST, A DISTANCE OF 112.79; THENCE SOUTH 00°26'54" WEST, A DISTANCE OF 189.61 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF HICKMAN ROAD AS IT IS PRESENTLY ESTABLISHED, SAID POINT BEING 10.50 FEET NORTH OF THE SOUTH LINE OF SAID LOT 10; THENCE NORTH 89°36'15" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 36.41 FEET TO THE EAST LINE OF SAID LOT 9; THENCE SOUTH 00°17'15" WEST ALONG THE EAST LINE OF SAID LOT 9, A DISTANCE OF 3.50 FEET; THENCE NORTH 89°36'15" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 132.00 FEET; THENCE NORTH 44°39'30" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 25.48 FEET TO THE WEST LINE OF SAID LOT 7 AND TO THE EAST RIGHT-OF-WAY LINE OF MERLE HAY ROAD AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 00°17'15" EASET ALONG THE EAST RIGHT-OF-WAY LINE OF SAID MERLE HAY ROAD, A DISTANCE OF 425.02 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 2.38 ACRES



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from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District classification to the PUD Planned Unit Development District classification; and,

WHEREAS, on March 7, 2013, the Plan and Zoning Commission recommended by a vote of 11-3 that the proposed rezoning and PUD conceptual plan be approved, subject to the conditions identified in the attached letter from the Planning Administrator; and,

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

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning and PUD Conceptual Plan are hereby overruled and the hearing is closed.

2. The rezoning to the PUD Planned Unit Development District classification and the PUD Conceptual Plan for the Property described above, which is on file in the Community Development Department, are hereby approved, subject to the plan being first amended to satisfy the conditions set forth in the attached letter from the Planning Administrator, and subject to the Community Development Director finding that such conditions have been satisfied by the amendments to the plan.

MOVED by Griess to adopt and approve the rezoning to the PUD District classification and Conceptual Plan, subject to final passage of the rezoning ordinance and amend height of the monument sign to be no more than 15-16 feet tall.

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