

★ **Roll Call Number**

Agenda Item Number

49C

Date..... January 7, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2680 E. Payton Avenue from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District classification",

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Roger K. Brown
 Roger K. Brown

Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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.

 City Clerk

MOTION CARRIED

APPROVED

.....
 Mayor

490

ORDINANCE NO. _____

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2680 E. Payton Avenue from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 2680 E. Payton Avenue, more fully described as follows, from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District classification:

Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5th P.M., Des Moines, Polk County, Iowa; EXCEPT, the West 434.1 feet, the North 321.62 feet, and the South 49.5 feet, thereof, more particularly described as follows (and hereinafter referred to as the "Property"):

Beginning at the Southeast Corner of Lot 1 in White's Meadows, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa, said point being 49.50 feet North of the South Line of Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5th P.M., Des Moines, Polk County, Iowa, said point also being on the North Right-of-Way Line of East Payton Avenue as it is presently established in the City of Des Moines, Iowa; thence North along the East Line of said White's Meadows a distance of 965.4 feet, more or less, to the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, East along the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 863.5 feet, more or less, to the West Line of Lot 3 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, South along the West Line of said Lot 3 a distance of 551.9 feet, more or less, to the Northeast Corner of Lot 2 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, Southwesterly along the Northerly Line of said Lot 2 a distance of 730.3 feet, more or less, to the Northwest Corner of said Lot 2; thence, South along the West Line of said Lot 2 a distance of 223.1 feet, more or less, to the North Right-of-Way Line of said East Payton Avenue; thence, West along the North Right-of-Way Line of said East Payton Avenue and

along a line parallel with and 49.5 feet North of the South Line of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 152.7 feet, more or less, to the Point of Beginning.

Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- a) Only the following uses of structures and land shall be permitted upon the Property:
 - (i) Any use permitted in and as limited in the R1-80 One-Family Residential District.
 - (ii) Assisted living residential facility or housing for older persons.
- b) A tree survey detailing the species and caliper of all trees on the Property over 6 inches in caliper shall be submitted at such time that any preliminary subdivision plat is considered for the Property.
- c) Prior to approval of a preliminary subdivision plat for the Property, no tree over 6 inches in diameter shall be removed from the Property without the prior written approval of the Community Development Director of the City.
- d) No development of the Property shall occur prior to approval of a preliminary major subdivision plat which provides for the extension of SE 27th Street through the Property, and an east/west street connection to properties adjoining to the east and to the west of the Property.
- e) The lot area per dwelling unit for and development of the Property shall not be less than 3,600 square feet per dwelling unit.
- f) Any Site Plan for multiple-family residential development of the Property shall provide for the improvement and dedication of SE 27th Street.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

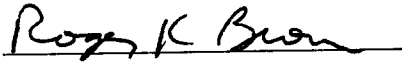
Sec. 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this

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ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

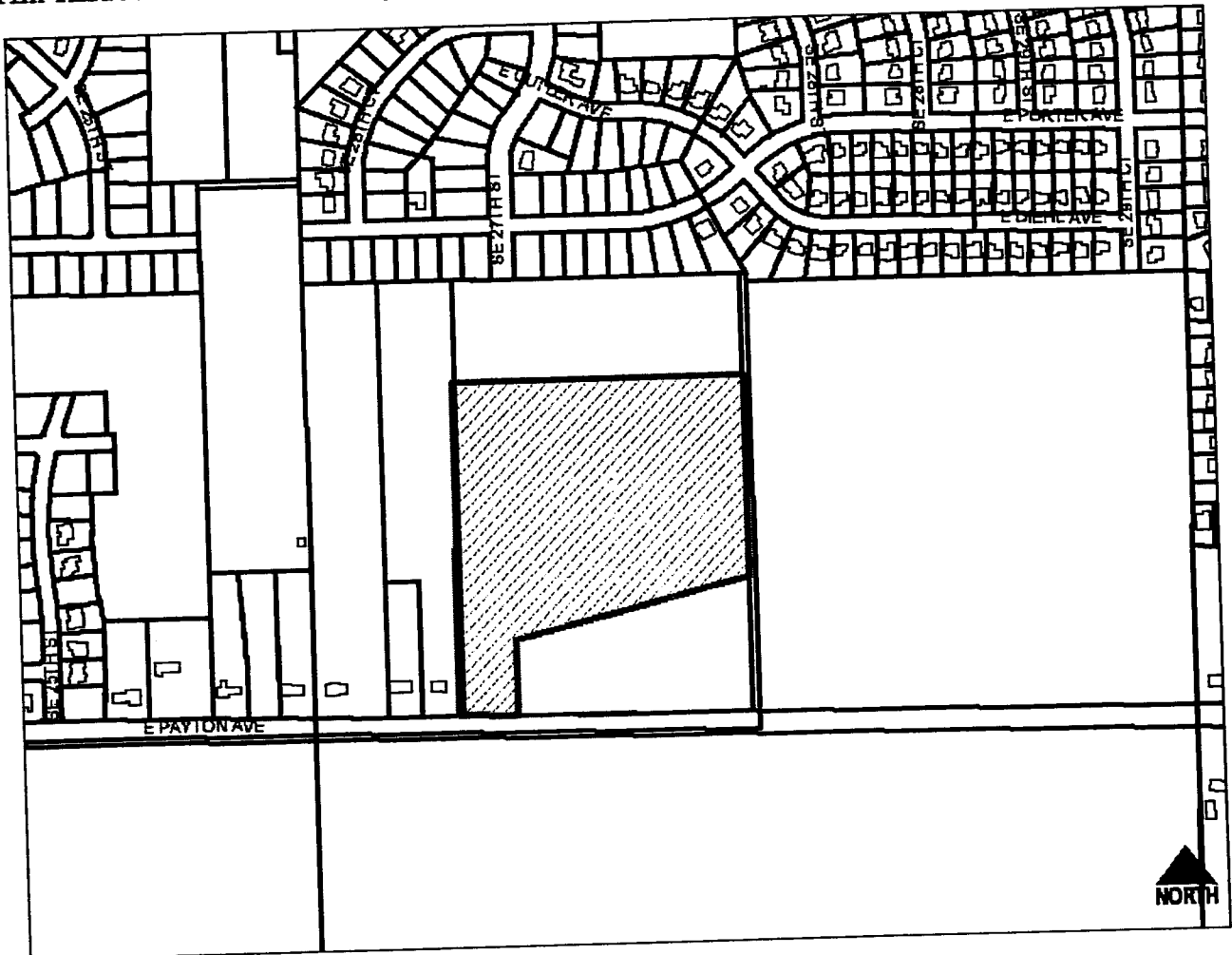
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49C

Request from Tim Hildebrandt (purchaser) to rezone property located at 2680 East Payton Avenue.			File # ZON2007-00184	
Description of Action	Rezone property from "R1-80" One-Family Residential District to "R-3" Multiple-Family Residential District, to allow for development of the property with a 50 unit assisted living residential apartment complex.			
2020 Community Character Plan	ELNT: General Development Zone, Low Density Residential, Public/Semi-Public			
Horizon 2025 Transportation Plan	No Planned Improvements			
Current Zoning District	"R1-80" One-Family Residential District			
Proposed Zoning District	"R-3" Multiple-Family Residential District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area			0	<20%
Outside Area	1	0		
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Tim Hildebrandt - 2680 E Payton Avenue

ZON2007-00184



49C

Prepared by: Roger K. Brown, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309
515/283-4541
Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309
Taxpayer: No change
Title of Document: Acceptance of Rezoning Ordinance
Grantor's Name: Robert W. Willett, Donald E. Willett and Edwin L. Willett
Grantee's Name: City of Des Moines, Iowa

Legal Description:

Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5th P.M., Des Moines, Polk County, Iowa; EXCEPT, the West 434.1 feet, the North 321.62 feet, and the South 49.5 feet, thereof, more particularly described as follows (and hereinafter referred to as the "Property"):

Beginning at the Southeast Corner of Lot 1 in White's Meadows, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa, said point being 49.50 feet North of the South Line of Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5th P.M., Des Moines, Polk County, Iowa, said point also being on the North Right-of-Way Line of East Payton Avenue as it is presently established in the City of Des Moines, Iowa; thence North along the East Line of said White's Meadows a distance of 965.4 feet, more or less, to the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, East along the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 863.5 feet, more or less, to the West Line of Lot 3 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, South along the West Line of said Lot 3 a distance of 551.9 feet, more or less, to the Northeast Corner of Lot 2 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, Southwesterly along the Northerly Line of said Lot 2 a distance of 730.3 feet, more or less, to the Northwest Corner of said Lot 2; thence, South along the West Line of said Lot 2 a distance of 223.1 feet, more or less, to the North Right-of-Way Line of said East Payton Avenue; thence, West along the North Right-of-Way Line of said East Payton Avenue and along a line parallel with and 49.5 feet North of the South Line of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 152.7 feet, more or less, to the Point of Beginning.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned Robert W. Willett, Donald E. Willett and Edwin L. Willett, hereby state, warrant and agree as follows:

1. That we are the sole owners of the Property in the vicinity of 2680 E. Payton Avenue, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District classification, we agree and accept on behalf of the owners to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

- a) Only the following uses of structures and land shall be permitted upon the Property:
 - (i) Any use permitted in and as limited in the R1-80 One-Family Residential District.
 - (ii) Assisted living residential facility or housing for older persons.
- b) A tree survey detailing the species and caliper of all trees on the Property over 6 inches in caliper shall be submitted at such time that any preliminary subdivision plat is considered for the Property.
- c) Prior to approval of a preliminary subdivision plat for the Property, no tree over 6 inches in diameter shall be removed from the Property without the prior written approval of the Community Development Director of the City.
- d) No development of the Property shall occur prior to approval of a preliminary major subdivision plat which provides for the extension of SE 27th Street through the Property, and an east/west street connection to properties adjoining to the east and to the west of the Property.
- e) The lot area per dwelling unit for and development of the Property shall not be less than 3,600 square feet per dwelling unit.
- f) Any Site Plan for multiple-family residential development of the Property shall provide for the improvement and dedication of SE 27th Street.

3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "R-3", then this Acceptance shall be immediately terminated as applied to the real estate so rezoned on the effective date of such rezoning, and the conditions agreed

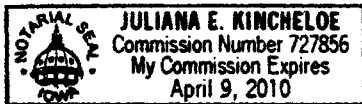
to herein shall be rendered null and void, provided, if there be any such rezoning to a more restricted zoning classification, any then legal actual use of such real estate shall become a legal non-conforming use.

The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Robert W. Willett
Robert W. Willett

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on December 24 2007, by Robert W. Willett.

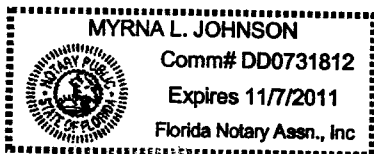


Juliana E. Kincheloe
Notary Public in the State of Iowa
My commission expires: April 9, 2010

Donald E. Willett
Donald E. Willett

FLORIDA
State of ~~Iowa~~)
Pinellas) ss:
County of ~~Polk~~)

This instrument was acknowledged before me on 12-28 - , 2007, by Donald E. Willett.



Myrna L. Johnson
Notary Public in the State of Iowa FLORIDA
My commission expires: 11-07-11

49C

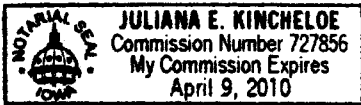
Acceptance of Rezoning Ordinance
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Edwin L Willett

Edwin L. Willett

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on December 24 2007 by Edwin L. Willett.



Juliana E Kincheloe
Notary Public in the State of Iowa
My commission expires: April 9, 2010