



Roll Call Number

Agenda Item Number

35C ✓

Date January 11, 2010

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 3814, 3822 and 3826 57th Street from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification",

presented.

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

NOTE: Six affirmative votes required for passage due to the filing of a sufficient protest.

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				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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.

MOTION CARRIED

APPROVED

Mayor

City Clerk

35C

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 3814, 3822 and 3826 57th Street from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial 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 3814, 3822 and 3826 57th Street, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification:

The East 130 feet of Lots 36 and 37, Block P, Aviation Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as "3814 57th Street"); AND,

The East 130 feet of Lots 31, 32 and 33, and the North 10 feet of the East 130 feet Lot 34, Block P, Aviation Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as "3822-3826 57th Street ").

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:

- 1. The property at 3814 57th Street shall be subject to the following conditions:
 - A. No buildings or parking (except drive entrances) shall be constructed or maintained within 30 feet of the front property line along 57th Street so long as there are single-family dwelling properties directly adjoining 3814 57th Street.

- B. The following uses of structures and land shall be prohibited on 3814 57th Street:
 - (1) Adult entertainment business;
 - (2) Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales;
 - (3) Off-premises advertising signs;
 - (4) Package goods stores for the sale of alcoholic beverages;
 - (5) Pawn businesses;
 - (6) Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
 - (7) Communication Towers.
 - C. Any redevelopment of 3814 57th Street shall be subject to Site plan review by the Plan and Zoning Commission.
2. The property at 3822-3826 57th Street shall be subject to the following conditions:
- A. No buildings or parking (except drive entrances) shall be constructed or maintained within 30 feet of the front property line along 57th Street so long as there are single-family dwelling properties directly adjoining 3822-3826 57th Street.
 - B. Only the following uses of structures or land shall be permitted upon 3822-3826 57th Street: Parking lot and access driveway to 57th Street.
 - C. Any redevelopment of 3822-3826 57th Street shall be subject to Site plan review by the Plan and Zoning Commission.

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

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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: Rich Eychaner and AZ, LLC

Grantee's Name: City of Des Moines, Iowa

Legal Description:

The East 130 feet of Lots 31, 32, 33, 36, 37, and the North 10 feet of the East 130 feet Lot 34, Block P, Aviation Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Rich Eychaner, a single person, is the sole owner of the portion of the Property commonly known as 3814 57th Street, and more specifically described as follows:

The East 130 feet of Lots 36 and 37, Block P, Aviation Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as "3814 57th Street").

2. That in the event the City of Des Moines, Iowa, acts to rezone 3814 57th Street from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification, Rich Eychaner agrees and accepts 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 such land:

- A. No buildings or parking (except drive entrances) shall be constructed or maintained within 30 feet of the front property line along 57th Street so long as there are single-family dwelling properties directly adjoining 3814 57th Street.
- B. The following uses of structures and land shall be prohibited on 3814 57th Street:
 - (1) Adult entertainment business;
 - (2) Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales;
 - (3) Off-premises advertising signs;
 - (4) Package goods stores for the sale of alcoholic beverages;
 - (5) Pawn businesses;
 - (6) Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
 - (7) Communication Towers.
- C. Any redevelopment of 3814 57th Street shall be subject to Site plan review by the Plan and Zoning Commission.

3. That AZ, LLC, an Iowa limited liability company, is the sole owner of the portion of the Property commonly known as 3822-3826 57th Street, and more specifically described as follows:

The East 130 feet of Lots 31, 32 and 33, and the North 10 feet of the East 130 feet Lot 34, Block P, Aviation Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as "3822-3826 57th Street").

4. That in the event the City of Des Moines, Iowa, acts to rezone 3822-3826 57th Street from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification, AZ, LLC, agrees and accepts 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 such land:

- A. No buildings or parking (except drive entrances) shall be constructed or maintained within 30 feet of the front property line along 57th Street so long as there are single-family dwelling properties directly adjoining 3822-3826 57th Street.
- B. Only the following uses of structures or land shall be permitted upon 3822-3826 57th Street: Parking lot and access driveway to 57th Street.
- C. Any redevelopment of 3822-3826 57th Street shall be subject to Site plan review by the Plan and Zoning Commission.

5. 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.

6. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "C-2", 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.

Rick Eychaner

State of Iowa)
County of Polk) ss:

This instrument was acknowledged before me on _____, 20____, by **Rick Eychaner**, to me personally known.

Notary Public in the State of Iowa
My commission expires: _____

AZ, LLC

By: _____
Rick Eychaner, Manager

State of Iowa)
County of Polk) ss:

This instrument was acknowledged before me on _____, 20____, by **Rich Eychaner** as the Manager of **AZ, LLC**, an Iowa limited liability company, on behalf of whom the instrument was executed.

Notary Public in the State of Iowa
My commission expires: _____

35C ✓

ITEM # 35C

Request from Rich Eychaner (owner) to rezone property located in the 3814, 3822 & 3826 57 th Street. Subject property also owned by AZ, LLC represented by Rich Eychaner (officer).		File # ZON2009-00217			
Description of Action	Rezone property from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District, to allow redevelopment for a commercial center and associated loading and off-street parking areas.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District,				
Proposed Zoning District	Limited "C-2" General Retail and Highway Oriented Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	4	11		25	
Outside Area	2				
Plan and Zoning Commission Action	Approval	7-3; 9-1	Required 6/7 Vote of the City Council	Yes	X
	Denial			No	

Rich Eychaner - 3814, 3822 & 3826 57th Street

ZON2009-00217

