

★ **Roll Call Number**

Agenda Item Number

46A

Date June 28, 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 400 SE 6th Street from the M-1 Light Industrial to a Limited C-3B Central Business Mixed Use District classification",

presented.

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

FORM APPROVED:

(First of three required readings)



 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ 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.

_____ City Clerk

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 400 SE 6th Street from the M-1 Light Industrial to a Limited C-3B Central Business Mixed Use 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 400 SE 6th Street, more fully described as follows, from the M-1 Light Industrial to a Limited C-3B Central Business Mixed Use District classification:

East 1/2 of the North 47 feet, Lot 10, Block 43, Town of De Moine, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk and Warren County, Iowa

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. Prohibition of uses listed in Des Moines Municipal Code Section 134-1006[1][a]-[j].
- B. Prohibition of the following additional uses:
 - 1. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - 2. Auction businesses.
 - 3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

4. Lumberyards, retail and wholesale.
5. Machine shops.
6. Package goods stores for the sale of alcoholic beverages.
7. Pawnshops.
8. Printing, publishing houses and lithographing shops.
9. Plumbing and heating shops.
10. Miniwarehouse uses.
11. Taverns and night clubs.
12. Warehousing.

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:



Michael F. Kelley
Assistant City Attorney

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Prepared by: Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
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: Guaranty Bank & Trust Company, as Trustee for Anthony E. Schubert, IRA; 400 S.E. 6th, Inc.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

East 1/2 of the North 47 feet, Lot 10, Block 43, Town of De Moine, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Guaranty Bank & Trust Company, as Trustee for Anthony E. Schubert, IRA, as titleholder, and 400 S.E. 6th, Inc., as contract purchaser, are the sole owners of the Property in the vicinity of 400 S.E. 6th Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from M-1 Light Industrial to Limited C-3B Central Business Mixed Use 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. Prohibition of uses listed in Des Moines Municipal Code Section 134-1006[1][a]-[j].
- B. Prohibition of the following additional uses:
 - 1. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - 2. Auction businesses.
 - 3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.


4. Lumberyards, retail and wholesale.
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6. Package goods stores for the sale of alcoholic beverages.
7. Pawnshops.
8. Printing, publishing houses and lithographing shops.
9. Plumbing and heating shops.
10. Miniwarehouse uses.
11. Taverns and night clubs.
12. Warehousing.

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 C-3B, 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.

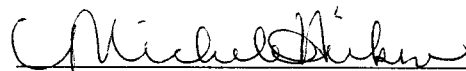
The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

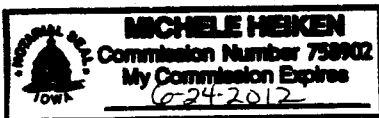
**Guaranty Bank & Trust Company,
as Trustee for Anthony E. Schubert, IRA**

By: 
Sara Fitzgerald, Trustee

State of Iowa)
) ss:
County of Polk)

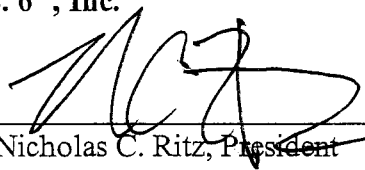
This instrument was acknowledged before me on JUNE 22, 2010, by **Sara Fitzgerald** who is a Trustee of Guaranty Bank & Trust Company, as Trustee for Anthony E. Schubert, IRA, who is personally known to me and has been authorized by the Board of Directors and applicable trust instruments to execute this document on behalf of Guaranty Bank & Trust Company, as Trustee for Anthony E. Schubert, IRA.


Notary Public in the State of Iowa



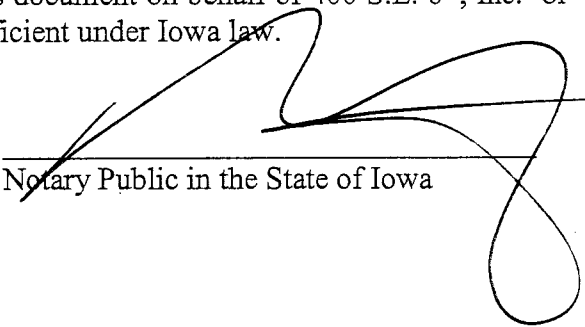
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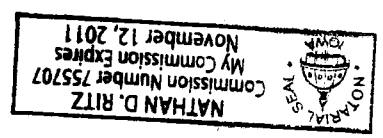
400 S.E. 6th, Inc.

By: 
Nicholas C. Ritz, President
Contract Buyer

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 6/21/2010, 2010, by Nicholas C. Ritz, President of 400 S.E. 6th, Inc., who is personally known to me and has been authorized by the Board of Directors to execute this document on behalf of 400 S.E. 6th, Inc. or who has provided identification pursuant to and sufficient under Iowa law.


Notary Public in the State of Iowa



Request from 400 SE 6 th , Inc. (contract buyer) represented by Nicholas Ritz (officer) to rezone property located at 400 Southeast 6 th Street. The subject property title holder is Anthony Schubert.		File # ZON2010-00082		
Description of Action	Rezone property from "M-1" Light Industrial District to "C-3" Central Business District Commercial in order to remove requirements for minimum off-street parking and minimum building setbacks.			
2020 Community Character Plan	Downtown: Support Commercial			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"M-1" Light Industrial District			
Proposed Zoning District	"C-3" Central Business District Commercial			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	2	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No
				X

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400 SE 6th Inc. - 400 SE 6th Street

ZON2010-00082

