

★ **Roll Call Number**

Agenda Item Number

63C

Date July 14, 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 605 East 15th Street from "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial 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				
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.

MOTION CARRIED APPROVED

Mayor

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 605 East 15th Street from "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail 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 605 East 15th Avenue, more fully described as follows, from "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District classification:

East 43.5 feet Lot 1 and all Lots 2, 3 and 4, Block 47, Stewarts Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk 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:

1. Prohibit the use of the property for any packaged goods stores for the sale of alcoholic beverages, lawn mower or small engine repair shops, pawn shops, upholstery shops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
2. Any commercial structures shall be constructed of an architectural design with at least 40% of the façade covered in a durable material such as brick, stone, or masonry block with no use of metal below the roof, and no use of EIFS, or other stucco type material in lower four feet of any exterior building wall.

3. Any commercial site development shall only have direct drive access to Des Moines Street, with no drive connection to the alley until such time as the property to the north may be developed for commercial purposes at which time cross access to the north may be approved. This is also subject to any other restrictions which may require approval by City Traffic and Transportation and Iowa DOT.
4. A six-foot high solid wood fence with masonry pillars shall be used to meet required bufferyard screening from residential property to the east in general compliance with the submitted design schematic.
5. Bufferyard landscaping to the east shall exceed the minimum plantings required by the Des Moines Landscape Standards, but shall maintain an appropriate density as to ensure the survivability of the plant material.
6. A three-foot high masonry site wall shall be used to meet the parking requirement from Des Moines Street in general compliance with the submitted design schematic.
7. Required trash enclosures shall be constructed of materials compatible with the principal commercial structure and have opaque metal gates.
8. All non-building mounted signs be monument type only;
9. Site plan return to the Commission for review and approval if the submitted site plan is not in substantial compliance with the concept plan presented at the rezoning hearing;
10. Applicant work with staff on the elimination of the fence on Des Moines Street west of the entry drive and along the north property line, west of the dumpsters.

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

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: Imperial Properties, Inc.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

East 43.5 feet Lot 1 and all Lots 2, 3 and 4, Block 47, Stewarts Addition, 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 Imperial Properties, Inc., an Iowa limited liability company, is the sole owner of the Property in the vicinity of 605 E. 15th Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District classification, we agree and accept on behalf of the owner 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:

1. Prohibit the use of the property for any packaged goods stores for the sale of alcoholic beverages, lawn mower or small engine repair shops, pawn shops, upholstery shops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
2. Any commercial structures shall be constructed of an architectural design with at least 40% of the façade covered in a durable material such as brick, stone, or masonry block with no use of metal below the roof, and no use of EIFS, or other stucco type material in lower four feet of any exterior building wall.

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5. Bufferyard landscaping to the east shall exceed the minimum plantings required by the Des Moines Landscape Standards, but shall maintain an appropriate density as to ensure the survivability of the plant material.
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7. Required trash enclosures shall be constructed of materials compatible with the principal commercial structure and have opaque metal gates.
8. All non-building mounted signs be monument type only;
9. Site plan return to the Commission for review and approval if the submitted site plan is not in substantial compliance with the concept plan presented at the rezoning hearing;
10. Applicant work with staff on the elimination of the fence on Des Moines Street west of the entry drive and along the north property line, west of the dumpsters.

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-1", 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.

[Signature page to follow]

TITLEHOLDER,

William Moyer
William Moyer, President
Imperial Properties, Inc.

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 1st day of July, 2008, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared William Moyer, as President of Imperial Properties, Inc. by authority of its board of directors, to me personally known, and who, being by me duly sworn did state that he is the person who has executed the foregoing instrument and who has acknowledged the execution of the instrument to be his voluntary act and deed.



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