

Date August 9, 2010

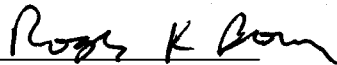
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2301 Hickman Road from the "R1-60" One-Family Low-Density Residential District and "R-3" Multiple-Family Residential District to a 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)


 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

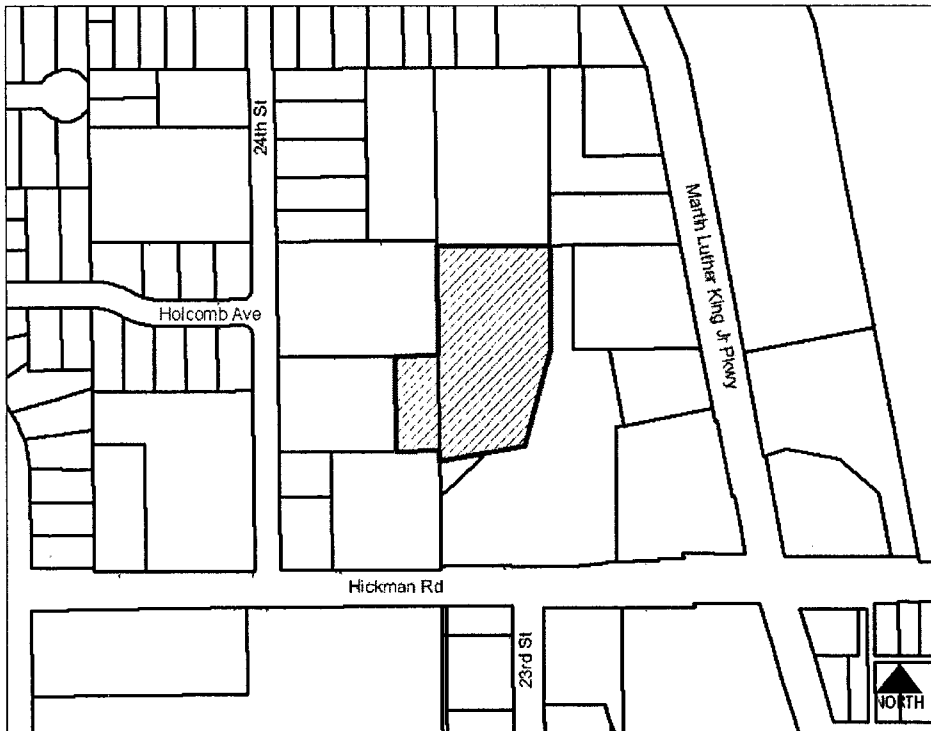
 City Clerk

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Request from Freedom For Youth Ministries (owner) represented by Mark Nelson to rezone property located in the vicinity of 2301 Hickman Road:		File #		
		ZON2010-00102		
Description of Action	Rezone property from "R-3" Multiple-Family Residential District and "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow construction of a children's center and an off-street parking lot.			
2020 Community Character Plan	Existing: Low-Density Residential Proposed: Commercial: Auto-Oriented, Small-Scale Strip Development			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"R-3" Multiple-Family Residential District and "R1-60" One-Family Low-Density Residential District			
Proposed Zoning District	Limited "C-1" Neighborhood Retail Commercial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	0	1		
Outside Area				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Freedom for Youth Ministries - 2301 Hickman Road

ZON2010-00102



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 2301 Hickman Road from the "R1-60" One-Family Low-Density Residential District and "R-3" Multiple-Family Residential District to a 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 2301 Hickman Road, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District and "R-3" Multiple-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District classification:

Except the West 222.5 feet, the South 180 feet of the North 400 feet of Lot 25, Murray Hill, an Official Plat; AND, a portion of Lot 22, of the Official Plat of the East ½ of the NW ¼, and the SW ¼ of the SE ¼ and Government Lots 3, 4, 5 and 6, Section 28, Township 79 North, Range 24 West of the 5th P.M., described as follows: Beginning at a point at the SW corner of said Lot 22; thence North 411.3 feet; thence East 219.34 feet; thence South 198 feet; thence Southwest 188.08 feet; thence westerly 167.02 feet to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being Parcels 1 and 2 conveyed to Freedom for Youth Ministries by that Quit Claim Deed recorded on September 12, 2006, in Book 11849 at Pages 238-239.

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. Any structures to be constructed or placed upon the Property shall be determined architecturally compatible with surrounding residential structures and structures on the existing campus by the Community Development Director as part of Site Plan

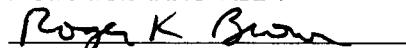
and Building Plan review by the Permit and Development Center.

- B. Any trees hereafter removed from the Property shall be mitigated in accordance with Chapter 42, Article X of the Des Moines Municipal Code.
- C. If mitigation plantings are required, staff will work with the owners of the Property use the mitigation plantings to provide landscaping along Hickman Road in accordance with the standards applicable in the "C-2" General Retail and Highway Oriented Commercial District.
- D. Any for-profit business activity conducted upon the Property shall be closed to the public between the hours of 9:00 p.m. and 6:00 a.m.
- E. The separate tax parcels within the Property shall be combine into a common parcel concurrently with any redevelopment of the Property.
- F. The following uses of structures and land shall be prohibited upon the Property:
 - (1) Delayed Deposit Services;
 - (2) Pawn brokerages;
 - (3) Bakeries;
 - (4) Restaurants;
 - (5) Delicatessens;
 - (6) Gas stations;
 - (7) Grocery stores;
 - (8) Launderettes and coin-operated dry cleaning establishments;
 - (9) Locker plants;
 - (10) Automotive accessory and parts stores;
 - (11) Upholstery shops; and
 - (12) Package goods stores for the sale of alcoholic beverages.
- G. Any Site Plan for development of the Property is subject to reviewed by the Plan & 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

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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: Freedom for Youth Ministries

Grantee's Name: City of Des Moines, Iowa

Legal Description: The real estate in the vicinity of 2301 Hickman Road, more specifically described as follows and hereinafter referred to as the "Property":

(Except West 222.5 feet), South 180 feet. North 400 feet, Lot 25, Murray Hill, an Official Plat, and also Beginning Southwest Corner, thence North 411.3 feet, East 219.34 feet, South 198 feet, Southwest 188.08 feet, Westerly to Point of Beginning, Lot 22, Official Plat, East 1/2, Northwest 1/4 & Southwest 1/4 Southeast 1/4 & Government Lots 3, 4, 5 & 6, Section 28, Township 79 North, Range 24 West of the 5th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

AND, a portion of Lot 22 in the Official Plat of the East 1/2 of the Northwest 1/4 and Southwest 1/4 of the Southeast 1/4 and Government Lots 3, 4, 5 and 6, Section 28, Township 79 North, Range 24 West of the 5th P.M., Des Moines, Polk County, Iowa is described as follows; Commencing at the South 1/4 Corner of said Section 28; Thence North 0 degrees, 0 minutes 0 seconds East along the West line of the Southeast 1/4 of said Section 28, 237.6 feet to the Southwest Corner of said Lot 22 and to the Point of Beginning; Thence continuing North 0 degrees 0 minutes 0 seconds East along the West line of the Southeast 1/4 of said Section 28, said line being the West Line of said Lot 22, 749.7 feet to the Northwest Corner of said Lot 22; Thence South 89 degrees 42 minutes 15 seconds East along the North Line of said Lot 22, 219.34 feet; Thence South 0 degrees 27 minutes 30 seconds West, 538.22 feet; Thence South 15 degrees 36 minutes 34 seconds West, 188.08 feet to a point on the Southerly line of said Lot 22; Thence South 79 degrees 55 minutes 30 seconds West along the Southerly line of said Lot 22, 167.02 feet to the Point of Beginning.

AND, a portion of Lot 1 and a portion of the 8.0 foot wide North-South alley lying West of and adjacent to said Lot 1, all in Fountain Place, an Official Plat and a portion of vacated D.W. Hickman Road later known as Holcomb Avenue in Lot 24 in the Official Plat or Subdivision of Official Plat of Lot 21, Southwest 1/4 of the Southeast 1/4 of Section 28, Township 79 North, Range 24 West of the 5th P.M. all now included in and forming a part of the City of Des Moines,

Note: This description is over inclusive. Not all such land was actually rezoned.

Polk County, Iowa and all of which is more accurately described as follows; Commencing at the South 1/4 corner of said Section 28, said point being on the West line of said Fountain Place: Thence North 0 degrees 0 minutes 0 seconds East along the West line of said Fountain Place, 172.0 feet to the West extension of the South line of Lot 1 in said Fountain Place and to the Point of Beginning; Thence continuing North 0 degrees 0 minutes 0 seconds East along the West line of said Fountain Place and along the West line of Lot 24 in the Official Plat or Subdivision of Official Plat of Lot 21, Southwest 1/4 of the Southeast 1/4 of Section 28, Township 79 North, Range 24 West of the 5th P.M., 65,6 feet to the Northwest Corner of said Lot24; Thence North 79 degrees 55 minutes 30 seconds East along the Northerly Line of said Lot 24, 93.7 feet; Thence South 48 degrees 22 minutes 15 seconds West, 123.42 feet to the Point of Beginning.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Freedom for Youth Ministries is the sole owner of the Property in the vicinity of 2301 Hickman Road, more specifically described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" One-Family Low-Density Residential District and "R-3" Multiple-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial 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. Any structures to be constructed or place upon the Property shall be determined architecturally compatible with surrounding residential structures and structures on the existing campus by the Community Development Director as part of Site Plan and Building Plan review by the Permit and Development Center.
 - B. Any trees hereafter removed from the Property shall be mitigated in accordance with Chapter 42, Article X of the Des Moines Municipal Code.
 - C. If mitigation plantings are required, staff will work with the owners of the Property use the mitigation plantings to provide landscaping along Hickman Road in accordance with the standards applicable in the "C-2" General Retail and Highway Oriented Commercial District.
 - D. Any for-profit business activity conducted upon the Property shall be closed to the public between the hours of 9:00 p.m. and 6:00 a.m.
 - E. The separate tax parcels within the Property shall be combine into a common parcel concurrently with any redevelopment of the Property.
 - F. The following uses of structures and land shall be prohibited upon the Property:
 - (1) Delayed Deposit Services;
 - (2) Pawn brokerages;

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- (3) Bakeries;
- (4) Restaurants;
- (5) Delicatessens;
- (6) Gas stations;
- (7) Grocery stores;
- (8) Launderettes and coin-operated dry cleaning establishments;
- (9) Locker plants;
- (10) Automotive accessory and parts stores;
- (11) Upholstery shops; and
- (12) Package goods stores for the sale of alcoholic beverages.

G. Any Site Plan for development of the Property is subject to reviewed by the Plan & Zoning Commission.

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.

Freedom for Youth Ministries

By: Mark Riley
Mark Riley, President

State of Iowa) ss:
County of Polk)

This instrument was acknowledged before me on August 4, 2010, by **Mark Riley** as President of Freedom for Youth Ministries, an Iowa non-profit corporation, on behalf of whom the instrument was executed.



Cindy Hill
Notary Public in the State of Iowa
My commission expires: 3/7/12