

Date September 28, 2009


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 6120 Douglas Avenue from R1-60 One-Family Low-Density Residential District to a C-2 General Retail and Highway Oriented 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				
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 6120 Douglas Avenue from R1-60 One-Family Low-Density Residential District to a 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 6120 Douglas Avenue, more fully described as follows, from R1-60 One-Family Low-Density Residential District to a C-2 General Retail and Highway Oriented Commercial District classification:

All Lot 87 and the North 19 feet of Lot 88, Clover Acres, AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN 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 use of the property for the following:
 - a. Adult entertainment business.
 - b. Vehicle display.
 - c. Off-premises advertising signs.
 - d. Package goods stores for sale of liquor.
 - e. Taverns/nightclubs.
 - f. Pawn shops.
 - g. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.

58A

h. Communication towers.

2. Any commercial building along with any associated gas canopy supports, and utility/trash enclosures shall be required to be constructed primarily of brick, masonry block or stone on all exterior walls.

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:

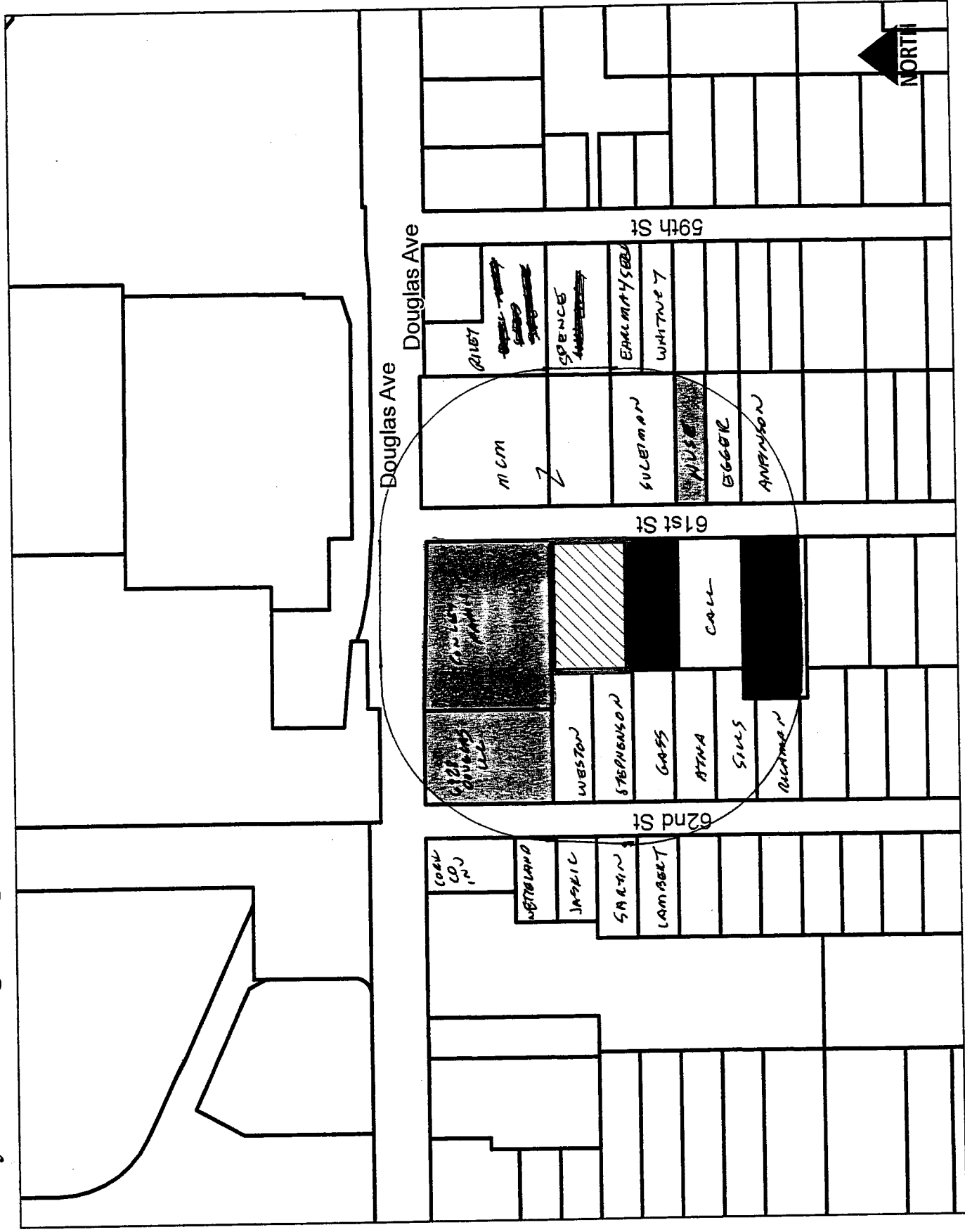


Michael F. Kelley
Assistant City Attorney

ZON2009-00131

Casey's Marketing Company - 6120 Douglas Avenue

S&A



SSA

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: Robert J. Conley Family, L.C., Traviss Family Investments, L.L.C., & Casey's Marketing Company
Grantee's Name: City of Des Moines, Iowa
Legal Description:

All Lot 87 and the North 19 feet of Lot 88, Clover Acres, AN OFFICIAL PLAT
all now included in and forming a part of the City of Des Moines, IN POLK
COUNTY, IOWA.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Robert J. Conley Family, L.C. and Traviss Family Investments, L.L.C as titleholders and Casey's Marketing Company as contract purchaser, are the sole owners of the Property in the vicinity of 6120 Douglas Avenue, 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 to a Limited C-2 General Retail and Highway Oriented Commercial District to allow redevelopment of the property for a gas/convenience store, 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. Prohibit use of the property for the following:

1. Adult entertainment business.
2. Vehicle display.
3. Off-premises advertising signs.
4. Package goods stores for sale of liquor.
5. Taverns/nightclubs.
6. Pawn shops.

7. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
 8. Communication towers.
- B. Any commercial building along with any associated gas canopy supports, and utility/trash enclosures shall be required to be constructed primarily of brick, masonry block or stone on all exterior walls.


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-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.

(Signature pages to follow)

Robert J. Conley Family, L.C.



Robert J. Conley, President
Titleholder and Contract Seller

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 9/18, 2009, by Robert J. Conley, who is President of Robert J. Conley, L.C., who is personally known to me and has been authorized by the board of directors to execute this document on behalf of Robert J. Conley, L.C.,



Jill Duden
Notary Public in the State of Iowa
My commission expires: June 14, 2011

58A

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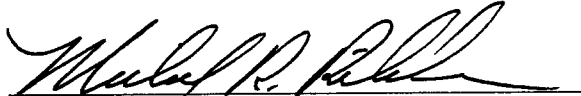
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

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(Signature pages to follow)

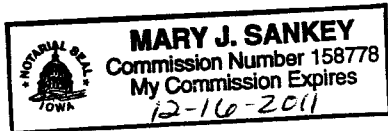
Casey's Marketing Company



Michael R. Richardson, President
Contract Purchaser

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on Sept. 21st, 2009, by Michael R. Richardson, who is President of Casey's Marketing Company, an Iowa corporation, who is personally known to me and has been authorized by the board of directors to execute this document on behalf of Casey's Marketing Company,



Mary J. Sankey
Notary Public in the State of Iowa
My commission expires: _____

Prepared by: Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
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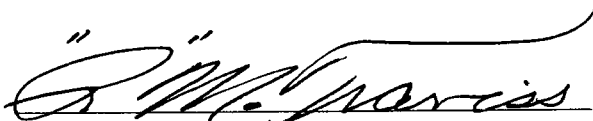
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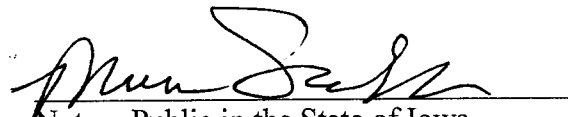
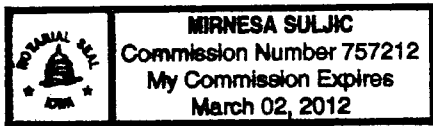
Traviss Family Investments, L.L.C.



R. M. Traviss, President
Titleholder and Contract Seller

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 09, 21, 2009, by R. M. Traviss, who is personally known to me and has been authorized by the board of directors to execute this document on behalf of Traviss Family Investments L.L.C.



Notary Public in the State of Iowa
My commission expires: March 2, 2012