

★ **Roll Call Number**

Agenda Item Number

620

Date.....October 9, 2006.....

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 5525 SE 14th Street from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential 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

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\WORK\REZONING\Hildebrandt.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
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.

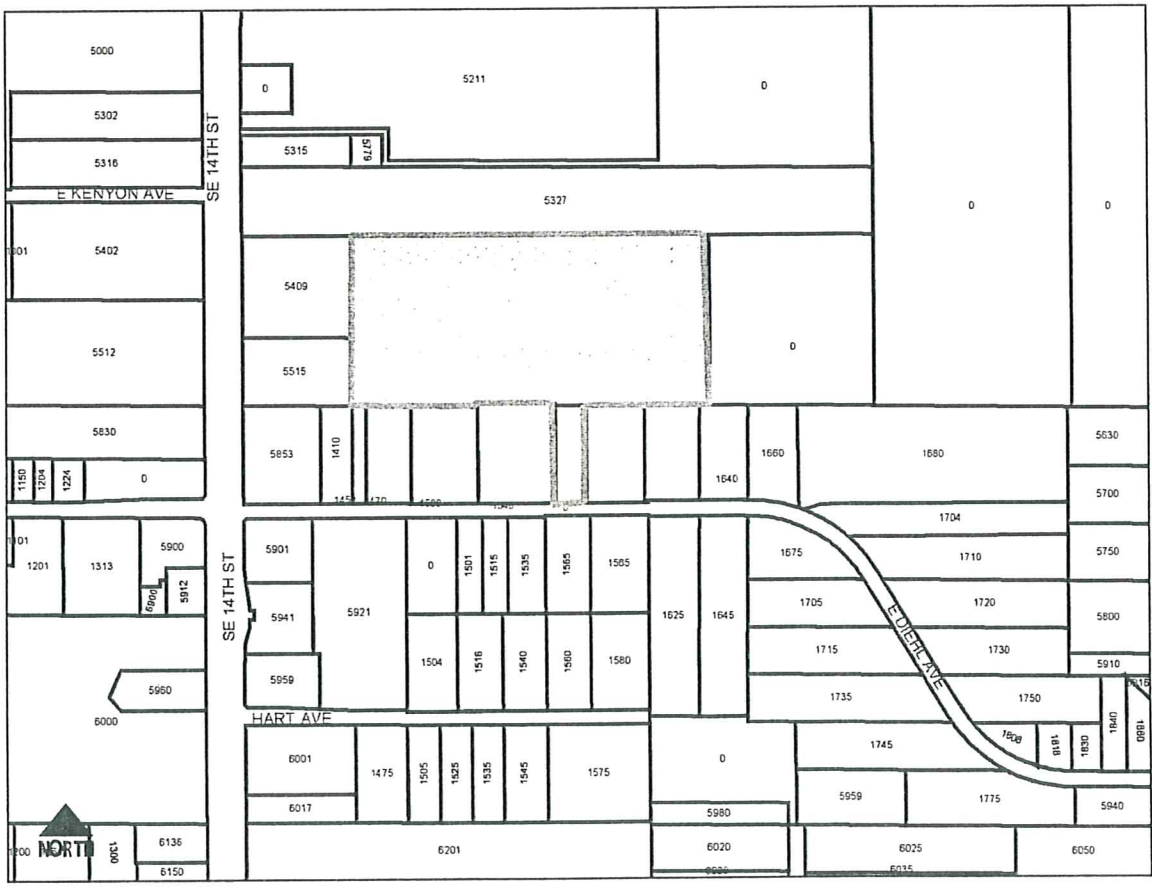
City Clerk

620

Request from Tim Hildebrandt (developer) to rezone property located at 5525 SE 14 th Street. The subject property is owned by Donald E. White and Anderson Properties, Inc.				File # ZON2006-00119	
Description of Action	Rezone property from "R1-80" One Family Residential District to "R-3" Multiple-Family Residential.				
2020 Community Character Plan	Low-Density Residential and Commercial: Auto-Oriented Community Commercial				
Horizon 2025 Transportation Plan	SE 14 th Street from Watrous Avenue to Army Post Road widen from 4 lane divided to 6 lane divided				
Current Zoning District	"R1-80" One Family Residential District				
Proposed Zoning District	"R-3" Multiple-Family Residential				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	1	0	0	<20%	
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Tim Hildebrandt (Developer) - 5525 SE 14th Street

ZON2006-00119



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 5525 SE 14th Street from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential 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 5525 SE 14th Street, more fully described as follows, from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District classification:

Except the West 400 feet, and except the East 510 feet of the South 538.64 feet, and Except the South 4.5 feet of the East 240.75 feet of the West 1033.5 feet - the South 25 acres of Lot 5, Official Plat of the Northwest Quarter of Section 26, Township 78 North, Range 24 West of the 5th P.M.; and, except the West 30 feet and except the East 10.2 feet - Lot 7, Capitol View Acres, 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").

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:

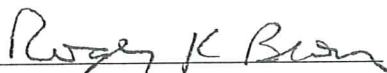
- A. Only the following uses of structures and land shall be permitted upon the Property:
 1. Any use allowed in and as restricted in the "R1-80" One-Family Residential District.
 2. Multiple-family senior residential housing.

- B. None of the trees over 4 inch in caliper measured one foot above the ground shall be removed from the Property until a tree mitigation plan is approved by the City incident to the approval of a site plan or grading permit.
- C. Any development of the Property is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate.
- D. Any development of the Property will incorporate conservation design methods for mitigation of storm water runoff from more frequent than two-year storm events.
- E. Any site plan or platting of the Property for multiple-family residential use shall include a professionally prepared traffic study and access to the subject property shall be based on the traffic study as reviewed and approved by the City Traffic Engineer.
- F. In the site plan review process, the design and materials for any multiple-family structure built on the Property shall be reviewed by the City for compatibility with the adjoining residential properties.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 4. That the City Clerk is hereby authorized and directed to cause a certified copy of the Rezoning Ordinance Acceptance, 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: Rezoning Ordinance
Grantor's Name: Donald E. White, Anderson Properties, Inc., and Tim Hildebrandt
Grantee's Name: City of Des Moines, Iowa
Legal Description:

Except the West 400 feet, and except the East 510 feet of the South 538.64 feet, and Except the South 4.5 feet of the East 240.75 feet of the West 1033.5 feet - the South 25 acres of Lot 5, Official Plat of the Northwest Quarter of Section 26, Township 78 North, Range 24 West of the 5th P.M.; and, except the West 30 feet and except the East 10.2 feet - Lot 7, Capitol View Acres, 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").

REZONING ORDINANCE ACCEPTANCE

The undersigned hereby state, warrant and agrees as follows:

(1) That Donald E. White and Anderson Properties, Inc., are the sole owners of the Property in the vicinity of 5525 SE 14th Street, more specifically described above.

(2) That in the event the City of Des Moines, Iowa (the "City"), acts to rezone the Property from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential 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. Only the following uses of structures and land shall be permitted upon the Property:
 - 1. Any use allowed in and as restricted in the "R1-80" One-Family Residential District.
 - 2. Multiple-family senior residential housing.
- B. None of the trees over 4 inch in caliper measured one foot above the ground shall be removed from the Property until a tree mitigation plan is approved by the City

incident to the approval of a site plan or grading permit.

- C. Any development of the Property is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate.
- D. Any development of the Property will incorporate conservation design methods for mitigation of storm water runoff from more frequent than two-year storm events.
- E. Any site plan or platting of the Property for multiple-family residential use shall include a professionally prepared traffic study and access to the subject property shall be based on the traffic study as reviewed and approved by the City Traffic Engineer.
- F. In the site plan review process, the design and materials for any multiple-family structure built on the Property shall be reviewed by the City for compatibility with the adjoining residential properties.

(3) A copy of the rezoning ordinance shall be attached hereto as Exhibit "A", and a certified copy of this document and Exhibit "A" 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 "R-3", 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.

Donald E. White P.O.A.
Donald E. White

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this 2nd day of October, 2006, before me, the undersigned a Notary Public in and for Polk County, Iowa, personally appeared **Donald E. White**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Chuck Stull
Notary Public
My commission expires: 3/5/09



620

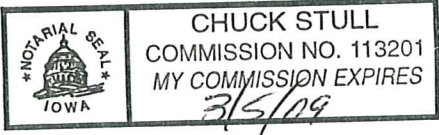
Anderson Properties, Inc.,
an Iowa corporation

By: William L. Anderson
William L. Anderson, President & Treasurer

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED, that on this 2nd day of October, 2006, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared **William L. Anderson**, to me personally known, who, being by me duly sworn did say that he is the President and Treasurer of **Anderson Properties, Inc.**, an Iowa corporation; that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, and by it and by him voluntarily executed.

Chuck Stull
Notary Public
My commission expires: 3/5/09



★ **Roll Call Number**

Agenda Item Number

62D

Date.....October 9, 2006.....

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 5525 SE 14th Street from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District classification",

which was considered and voted upon under Roll Call No. 06-_____ of October 9, 2006; again presented.

MOVED by _____ that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass.

ORDINANCE NO. _____ .

NOTE: Waiver of this rule is requested by the applicant, Tim Hildebrandt.

FORM APPROVED:

(Six affirmative votes required for passage.)

Roger K. Brown

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\WORK\REZONING\Hildebrandt.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VCLASSIS				
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