Agenda Item Number
45A

T	NT 1	~ 4	2000	
Date	November	24.	2008	

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 1930 Indianola Avenue from the C-1 Neighborhood Retail Commercial District to a Limited C-2 General Retail and Highway Oriented Commercial District classification.

presented.

Moved by	that this ordinance be considered and give	en 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 APPROV					

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.

Mayor	 City	Clerl

ORDINANCE NO.	
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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 1930 Indianola Avenue from the C-1 Neighborhood Retail Commercial District to a Limited 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 1930 Indianola Avenue, more fully described as follows, from the C-1 Neighborhood Retail Commercial District to a Limited C-2 General Retail and Highway Oriented Commercial District classification:

(Except Street) - Lots 8 thru 12. East of Line beginning 170.9 feet SW of SE corner Lot 8 thence Northwesterly 184.7 feet North line Lot 12 First Plat of Clifton Heights, 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:
 - A. Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
 - B. The site, including landscaping, shall be brought into conformance with an approved Site Plan.
 - C. Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.

- D. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.
- E. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.
- F. No materials or equipment related shall be stored outside of a building.
- G. The trash and waste oil tank enclosure is made of significant construction (concrete block, brick) with steel gates.
- 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:

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:

Title of Document:

Grantor's Name:

Acceptance of Rezoning Ordinance Stratford Holding, LLC

Grantee's Name:

City of Des Moines, Iowa

Legal Description:

(Except Street) - Lots 8 thru 12. East of Line beginning 170.9 feet SW of SE corner Lot 8 thence Northwesterly 184.7 feet North line Lot 12 First Plat of Clifton Heights, 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:

- That Stratford Holding, LLC, as titleholder, is the sole owner of the Property in the vicinity of 1930 Indianola Avenue, Des Moines, IA 50315, more specifically described above.
- That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "C-1" to a Limited "C-2" 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:
 - Only permitted uses of the property shall be those uses as permitted in the "C-1" District and garage for general motor vehicle repair as permitted in the "C-2" District.
 - The site, including landscaping, shall be brought into conformance with an approved Site Plan.
 - Striping of the off-street parking in accordance with the approved Site Plan or in accordance with a newly submitted plan for review indicating the current parking pattern.
 - D. Any inoperable vehicles on the site shall be kept indoors when kept on premises for more than a 24-hour period in an inoperable condition.

- E. Hours of operation shall be limited to those allowed in the "C-1" District for any "C-1" District use and between 6:00 AM and 10:00 PM for any garage for general motor vehicle repair.
- F. No materials or equipment related shall be stored outside of a building.
- G. The trash and waste oil tank enclosure is made of significant construction (concrete block, brick) with steel gates.
- 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 a limited "C-2" classification, 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.

STRATFORD HOLDING, LLC a New York Limited Liability Company

Mark Langfan, Manager

STATE OF NEW YORK

COUNTY OF hew your ss.

On this Archard day of New York, personally appeared Mark Langfan, to me personally known, and who, being by me duly sworn did state that he is the person executing the within and foregoing instrument; that the instrument was signed on his behalf, and on behalf of and as authorized by Stratford Holding, LLC; and that Name Langfan, acknowledged the execution of the instrument to be his voluntary act and deed.

Jenny Gaboff
Notary Public, State of New York
No. 01GA6066683

nh\MQualified, io Kings ւ GalyntXccept Commission Expires 11/19/2009

ace of Rezoning Ordinance.doc

File # USA

Request from R Way's, Inc. Indy Road Auto (lessee) represented by Don Roberts (officer) to rezone property located at 1930 Indianola Avenue. The subject property is owned by Stratford Holding, LLC.							ty is	ZON	File # 2008-00145	
Description of Action	General	l Reta	perty from "C-1" Neighborhood Retail Commercial District to a Limited "C-2" tail and Highway-Oriented Commercial District, to allow for reuse of the Garage for general motor vehicle repair.							
2020 Community Commercial: Pedestrian-Oriented Commercial Corridor Character Plan										
Horizon 2025 Transportation		No Planned Improvements								
Current Zoning	t	"C-1" Neighborhood Retail Commercial District								
Proposed Zoning District "Lim				"Limited C-2" General Retail and Highway-Oriented Commercial District				District		
Consent Card Responses Inside Area Outside Area			in F	avor	Not In Favor Undetermined 1 1				% Opposition <20%	
Plan and Zonii Commission A		Appr Deni		8-4		Required 6/7 Vote of the City Council No		Yes No		X

