

★ Roll Call Number

Agenda Item Number  
57C

November 8, 2010

Date

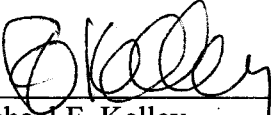
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2301, 2311 and 2367 East 14<sup>th</sup> Street, and 1406, 1408 and 1410 Guthrie Avenue, from the R1-60 One-Family Low-Density Residential District, C-1 Neighborhood Retail Commercial District and C-2 General Retail and Highway Oriented Commercial 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				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

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 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 2301, 2311 and 2367 East 14<sup>th</sup> Street, and 1406, 1408 and 1410 Guthrie Avenue, from the R1-60 One-Family Low-Density Residential District, C-1 Neighborhood Retail Commercial District and C-2 General Retail and Highway Oriented Commercial 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 2301, 2311 and 2367 East 14<sup>th</sup> Street, and 1406, 1408 and 1410 Guthrie Avenue, more fully described as follows, from the R1-60 One-Family Low-Density Residential District and C-2 General Retail and Highway Oriented Commercial District to Limited C-1 Neighborhood Retail Commercial District classification:

(R1-60 to Limited C-1)

Beginning at the Northeast Corner of Lot 18, Sargent Heights, an Official Plat thence South 100.36 feet, West 240.6 feet, Northwest 100.55 feet, East 244.9 feet to Point of Beginning, Lot 18, Sargent Heights.

And

(Except a piece beginning at the Southwest Corner of Lot 18, Sargent Heights, an Official Plat, thence North 50 feet, thence East 19.4 feet, thence Southerly 50.07 feet, thence West 20.2 feet to Point of Beginning), the South 50 feet of Lot 18, Sargent Heights.

All Lots 19, 20, 21, Sargent Heights, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(C-1 to Limited C-1)

Lot 22, Sargent Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(C-2 to Limited C-1)

Lots 23, and 24, Sargent Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.


Section 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 following uses of the property:
  - a. automotive and motorcycle accessory and parts stores,
  - b. theatres,
  - c. upholstery shops,
  - d. package goods stores for the sale of alcoholic beverages,
  - e. pawn shops, and
  - f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
- (2) All unused drive approaches shall be removed and the right-of-way shall be restored including the installation of full curbs at such time the property is redeveloped.
- (3) Any freestanding sign installed shall be a monument type sign.
- (4) Any trash screening enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with metal gates.
- (5) The site shall be developed in substantial conformance with the plan that was presented to the Commission.

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

Section 4. The City Clerk is hereby authorized and directed to cause certified copies of the Acceptances 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.

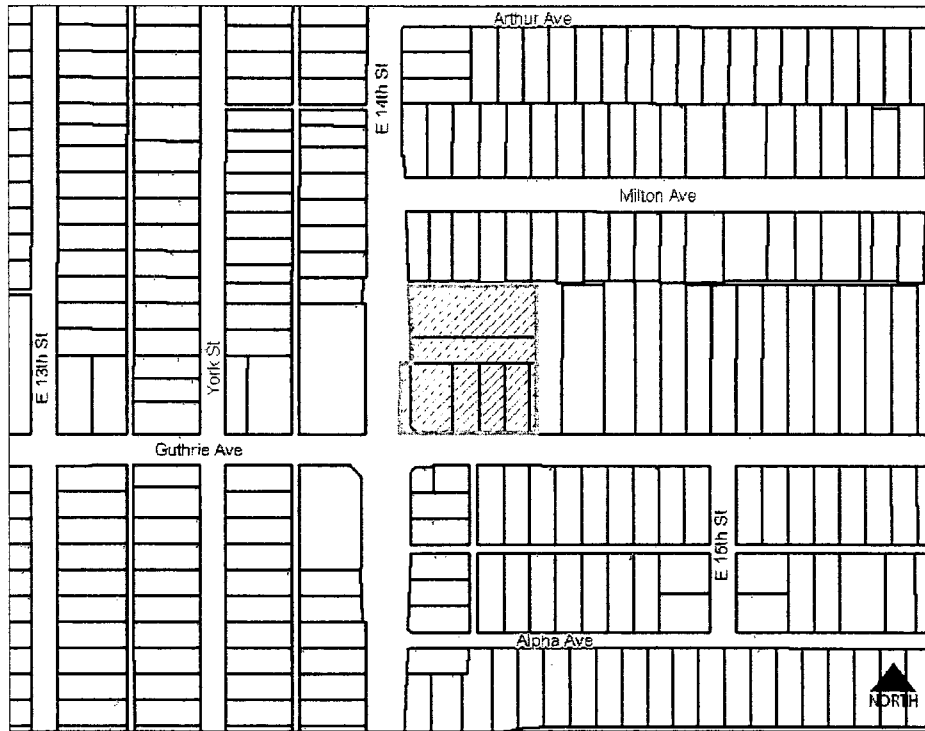
FORM APPROVED:

  
\_\_\_\_\_  
Michael F. Kelley  
Assistant City Attorney

570

Request from William C. Knapp, LC (owner) represented by Gerard Neugent (officer) for rezoning of property located at 2301, 2311, & 2367 East 14 <sup>th</sup> Street, and 1408 & 1410 Guthrie Avenue. Portions of the subject property are owned by Imperial Properties, Inc. and Francisco Montalvo.		File # ZON2010-00166		
<b>Description of Action</b>	Rezone property from "R1-60" One-Family Low-Density Residential District, "C-1" Neighborhood Retail Commercial District and "C-2" General Retail and Highway Oriented Commercial District to "C-1" Neighborhood Retail Commercial District to allow the property to be redeveloped as a physician's medical clinic.			
<b>2020 Community Character Plan</b>	Low-Density Residential and Commercial: Pedestrian-Oriented Neighborhood Node			
<b>Horizon 2035 Transportation Plan</b>	E 14 <sup>th</sup> Street from Euclid Avenue to University Avenue to widen from 4 lane undivided to 5 lane undivided			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District, "C-1" Neighborhood Retail Commercial District and "C-2" General Retail and Highway Oriented Commercial District			
<b>Proposed Zoning District</b>	"C-1" Neighborhood Retail Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	6	0		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	7-2-2	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No X

William C. Knapp LC-2301, 2311, 2367 E 14th St, 1408, 1410 Guthrie Ave ZON2010-00166



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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: William C. Knapp, L.C.  
 Grantee's Name: City of Des Moines, Iowa  
 Legal Description:

(R1-60 to Limited C-1)

Beginning at the Northeast Corner of Lot 18, Sargent Heights, an Official Plat thence South 100.36 feet, West 240.6 feet, Northwest 100.55 feet, East 244.9 feet to Point of Beginning, Lot 18, Sargent Heights.

And

(Except a piece beginning at the Southwest Corner of Lot 18, Sargent Heights, an Official Plat, thence North 50 feet, thence East 19.4 feet, thence Southerly 50.07 feet, thence West 20.2 feet to Point of Beginning), the South 50 feet of Lot 18, Sargent Heights.

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 (C-1 to Limited C-1)

Lot 22, Sargent Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(C-2 to Limited C-1)

Lots 23, and 24, Sargent Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That William C. Knapp, L.C. is the sole owner of one or more of the Properties in the vicinity of 2301, 2311 and 2367 East 14<sup>th</sup> Street, and 1406, 1408 and 1410 Guthrie Avenue, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Properties from the R1-60 One-Family Low-Density Residential District, C-1 Neighborhood Retail Commercial District and C-2 General Retail and Highway Oriented Commercial District to Limited C-1 Neighborhood Retail Commercial District classification, I 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 Properties:

- (1) Prohibit the following uses of the property:
  - a. automotive and motorcycle accessory and parts stores,
  - b. theatres,
  - c. upholstery shops,
  - d. package goods stores for the sale of alcoholic beverages,
  - e. pawn shops, and
  - f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
- (2) All unused drive approaches shall be removed and the right-of-way shall be restored including the installation of full curbs at such time the property is redeveloped.
- (3) Any freestanding sign installed shall be a monument type sign.
- (4) Any trash screening enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with metal gates.
- (5) The site shall be developed in substantial conformance with the plan that was presented to the Commission.

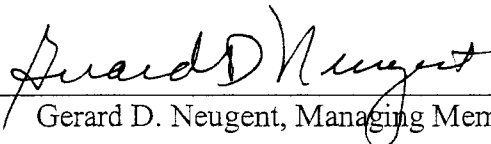
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

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.

**TITLEHOLDER**

**William C. Knapp, L.C.**

By:   
Gerard D. Neugent, Managing Member

State of Iowa            )  
                                  ) ss:  
County of Polk         )

This instrument was acknowledged before me on November 1, 2010, by Gerard D. Neugent as Managing Member of William C. Knapp, L.C., an Iowa limited liability company, on behalf of whom the instrument was executed.



Debra K. Gans  
Notary Public in the State of Iowa  
My commission expires: 4-21-13