

Date October 24, 2011

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 3002 Forest Avenue from the Limited C-1 Neighborhood Retail Commercial District to a revised 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		
_____ 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 3002 Forest Avenue from the Limited C-1 Neighborhood Retail Commercial District to a revised 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 3002 Forest Avenue, more fully described as follows, from the Limited C-1 Neighborhood Retail Commercial District to a revised Limited C-1 Neighborhood Retail Commercial District classification:

14 Foot Vacated North/South Alley Right-of-Way West and Adjacent Lots 1 through 5, and All Lots 1 through 5 and Lots 20 through 22, Ridgewood, 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) Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
- (2) The existing building architecture approved in 1999 shall be retained, including but not limited to the red brick exterior material and blue awnings.
- (3) Any expansion or modification of the building shall incorporate a red brick exterior to match the existing building to the satisfaction of the Community Development Director.

(4) The site shall be brought into conformance with current site plan and lighting standards.

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 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

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:	Archland Property I, LLC and McDonald's Corporation
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	14 Foot Vacated North/South Alley Right-of-Way West and Adjacent Lots 1 through 5, and All Lots 1 through 5 and Lots 20 through 22, Ridgewood, 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:

1. That Archland Property I, LLC and McDonald's Corporation, as titleholders, are the sole owners of the Property in the vicinity of 3002 Forest Avenue, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the Limited C-1 Neighborhood Retail Commercial District to a revised 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:

- (1) Any Site Plan amendment shall be in substantial conformance with the schematic drawings submitted June, 2011.
- (2) The existing building architecture approved in 1999 shall be retained, including but not limited to the red brick exterior material and blue awnings.
- (3) Any expansion or modification of the building shall incorporate a red brick exterior to match the existing building to the satisfaction of the Community Development Director.
- (4) The site shall be brought into conformance with current site plan and lighting standards.

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.

Archland Property I, LLC, a Delaware Limited Liability Company

By: David M. Ledy, Secretary
Titleholder

State of New York)
) ss:
County of New York)

McDonald's Corporation, a Delaware Corporation

Padraic Molloy MVP
Padraic Molloy, Managing Counsel
Titleholder

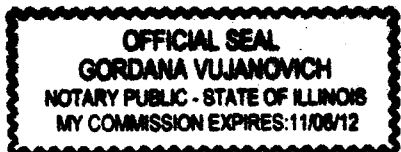
This instrument was acknowledged before me on Oct 12, 2011, by David M. Ledy who is Secretary of Archland Property, I, LLC, who is personally known to me and has been authorized by the _____ to execute this document on behalf of Archland Property I, LLC.

ELIZABETH A. ST. LIFER
Notary Public, State of New York
No. 02ST-4922106
Qualified in New York County
Commission Expires October 24, 2014

Elizabeth A. St. Lifer
Notary Public in the State of New York
My commission expires: _____

State of Illinois)
) ss:
County of DuPage)

This instrument was acknowledged before me on October 13, 2011, by Padraic Molloy, Managing Counsel, who is personally known to me and has been authorized by the board of directors to execute this document on behalf of McDonald's Corporation.



Gordana Vujanovich
Notary Public in the State of Illinois
My commission expires: 11-08-12