



Roll Call Number

Agenda Item Number

54C

Date June 24, 2013

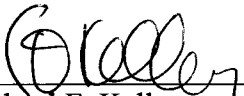
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3500 Kingman Boulevard from the R1-60 One-Family Low-Density Residential District, to a Limited NPC Neighborhood Pedestrian 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

54C

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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: | Thoreau Center, LLC | |
| Grantee's Name: | City of Des Moines, Iowa | |
| Legal Description: | Lots 1 and 2, Knox Place Plat 2, 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 Thoreau Center, LLC, an Iowa limited liability company, is the sole owner of the Property in the vicinity of 3500 Kingman Boulevard, Des Moines, Iowa, 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 NPC Neighborhood Pedestrian 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) The use of the property shall be limited to the following:
 - (a) Any use as allowed and limited in the R1-60 District.
 - (b) Office space.
 - (c) Events center for meeting, reception, or assembly space.

- (2) Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the NPC District as approved by the Plan & Zoning Commission.

- (3) Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
- (4) In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
- (5) The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
- (6) The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.
- (7) Hours of operation shall be limited to between 7:00 AM to 11:00 PM Sunday through Thursday and 7:00 AM to 12:00 Midnight Friday and Saturday, with all events ending by 10:00 PM Sunday through Thursday and 11:00 PM Friday and Saturday.
- (8) A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
- (9) Signage on the premises shall be limited to one monument sign not to exceed 24 square feet.
- (10) The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
- (11) Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
- (12) Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.
- (13) Outdoor restroom facilities shall be prohibited unless otherwise required by law.

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 NPC Neighborhood Pedestrian Commercial District, 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.

Thoreau Center, LLC,
an Iowa limited liability company

By: Scott Hartsook
Scott Hartsook, Member

By: Dennis Groenenboom
Dennis Groenenboom, Member

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on June 20, 2013, by Scott Hartsook and Dennis Groenenboom as Members of Thoreau Center, LLC, an Iowa limited liability company, on behalf of whom the instrument was executed.



Cathy Reynolds
Notary Public in the State of Iowa