

★ **Roll Call Number**

Agenda Item Number
58A

Date September 26, 2016

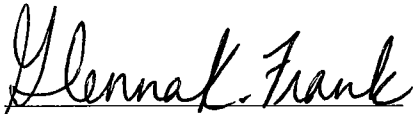
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 1820 East Army Post Road from the "C-2" General Retail and Highway Oriented Commercial District to the Limited "M-1" Light Industrial District classification",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)


 /Glenna K. Frank
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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

58A

Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309
Phone: 515/283-4530
Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309
Title of Document: City of Des Moines, Ordinance No. _____
Grantor/Grantee: City of Des Moines, Iowa
Legal Description: See page 1, below.

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 1820 East Army Post Road from the "C-2" General Retail and Highway Oriented Commercial District to the Limited "M-1" Light Industrial 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 1820 East Army Post Road, more fully described as follows, from the "C-2" General Retail and Highway Oriented Commercial District to the Limited "M-1" Light Industrial District classification:

Lot 41 in NEW HOPE, an Official Plat, except commencing at the Southwest corner of Lot 41 in NEW HOPE; thence North 33.3 feet along the West line of Lot 41; thence Easterly to a point on the East line of Lot 41; 30.8 feet North of the Southeast Corner of Lot 41; thence South 30.8 feet along the East line of Lot 41 to the Southeastern Corner of Lot 41; thence West to the point of beginning, now included in and forming a part of the City of Des Moines, Polk County, Iowa. Subject to all easements, covenants, and restrictions of record.

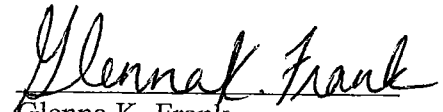
Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) Permitted uses on the Property shall be limited to the following:
 - a) Uses as permitted in the "C-2" District, excluding adult entertainment businesses, taverns or nightclubs, liquor stores, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by postdated checks or payroll guarantee as their primary activity; and
 - b) Fencing contractor business with retail, office and outdoor storage components.
- (2) Any outdoor storage on the Property shall comply with the following requirements:
 - a) Any outdoor storage shall be located to the north (rear) of the structure.
 - b) Any outdoor storage shall be screened from view with fencing of a height and material acceptable to the Planning Administrator, and one (1) evergreen tree shall be provided every 10 lineal feet along the exterior of the fence.
 - c) No items within any outdoor storage area shall be stacked higher than the perimeter screening.
 - d) Any storage area and driveways shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- (3) Prior to issuance of any Certificate of Occupancy for the Property, the Property shall be brought into conformance with a Site Plan as reviewed and approved by the City's Permit and Development Center.
- (4) Any development of the Property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

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

Section 4. That the City Clerk is hereby authorized and directed to cause certified copies of the Acceptance of Rezoning Ordinance, this ordinance, vicinity map and proof of publication of this ordinance to be properly filed in the office of the County Recorder of the county in which the subject property is located.

FORM APPROVED:

A handwritten signature in cursive script that reads "Glenna K. Frank". The signature is written in black ink and is positioned above the printed name.

Glenna K. Frank
Assistant City Attorney

58A

Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309
Phone: 515/283-4530
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: Robert F. Etzell, II (Owner) and Central Iowa Fencing, Ltd. (Purchasers)
Grantee's Name: City of Des Moines, Iowa
Legal Description: Lot 41 in NEW HOPE, an Official Plat, except commencing at the Southwest corner of Lot 41 in NEW HOPE; thence North 33.3 feet along the West line of Lot 41; thence Easterly to a point on the East line of Lot 41; 30.8 feet North of the Southeast Corner of Lot 41; thence South 30.8 feet along the East line of Lot 41 to the Southeastern Corner of Lot 41; thence West to the point of beginning, now included in and forming a part of the City of Des Moines, Polk County, Iowa. Subject to all easements, covenants, and restrictions of record.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Robert F. Etzel, II is the sole titleholder, and Central Iowa Fencing, Ltd. is the purchaser, of the Property locally known as 1820 East Army Post Road and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "C-2" General Retail and Highway Oriented Commercial District to Limited "M-1" Light Industrial District, 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) Permitted uses on the Property shall be limited to the following:
 - a) Uses as permitted in the "C-2" District, excluding adult entertainment businesses, taverns or nightclubs, liquor stores, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by postdated checks or payroll guarantee as their primary activity; and
 - b) Fencing contractor business with retail, office and outdoor storage components.
- (2) Any outdoor storage on the Property shall comply with the following requirements:

- a) Any outdoor storage shall be located to the north (rear) of the structure.
 - b) Any outdoor storage shall be screened from view with fencing of a height and material acceptable to the Planning Administrator, and one (1) evergreen tree shall be provided every 10 lineal feet along the exterior of the fence.
 - c) No items within any outdoor storage area shall be stacked higher than the perimeter screening.
 - d) Any storage area and driveways shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- (3) Prior to issuance of any Certificate of Occupancy for the Property, the Property shall be brought into conformance with a Site Plan as reviewed and approved by the City's Permit and Development Center.
 - (4) Any development of the Property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District; and

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 "M-1" Light Industrial District 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.

Titleholder(s)

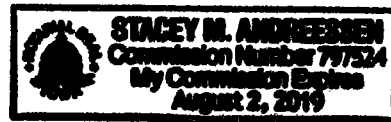
Robert F. Etzell, II
Robert F. Etzell, II

Lori Etzell
Spouse of Robert F. Etzell, II, If Any

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 9/11/16, 2016, by Robert F. Etzell, II and Lori Etzell (spouse of Robert F. Etzell, II, if any).

Stacey Andressen
Notary Public in the State of Iowa



S8A

Central Iowa Fencing, Ltd.

[Handwritten signature]

By: Mark A. Dunahoo 9-15-16

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on Sept. 15, 2016, by Mark A. Dunahoo as owner of Central Iowa Fencing, Ltd., an Iowa corporation, on behalf of whom the instrument was executed.

[Handwritten signature]

Notary Public in the State of Iowa

