



Roll Call Number

Agenda Item Number

59A

Date November 20, 2017

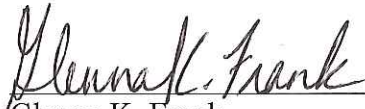
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 1233 63rd Street from the Limited "C- 1" Neighborhood Retail Commercial District to revised Limited "C-1" Neighborhood Retail Commercial District",

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

59A

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 1233 63rd Street from the Limited "C-1" Neighborhood Retail Commercial District to revised Limited "C-1" Neighborhood Retail Commercial District.

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 1233 63rd Street, more fully described as follows, from the Limited "C-1" Neighborhood Retail Commercial District to revised Limited "C-1" Neighborhood Retail Commercial District classification:

Lots 1 and 2, (Except 63rd Street Right-Of-Way) in WALDRON PLACE, 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:

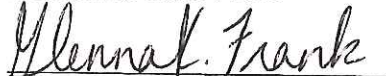
- a. Only one building may be constructed or maintained on the Property. Accessory structures are not permitted. The building shall not exceed a total of 5,400 square feet (2,755 gross square feet on the upper floor and 2,645 gross square feet on the lower level). Gross square footage shall be measured from the outside face of all exterior walls. The exterior dimensions of the building cannot be changed.
- b. The Property shall be landscaped and maintained in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
- c. The building and parking shall be configured in accordance with a revised Site Plan that shall be kept on file with the City. This shall provide a landscape plan that is generally the plan signed by the Planning Director on 9/25/03, but with the following modifications:
 - i. The twelve (12) Dark Green Arborvitae trees to the east of the building shall be replaced by two (2) Black Gum or Eastern Red Bud trees.
 - ii. Five (5) Tina Crab trees shall be provided to the south of the building.
 - iii. The landscape island within the parking may be eliminated.
 - iv. The overstory tree to the southwest of the building that is not identified on the planting plan shall be retained.
 - v. The overstory tree to the north of the building that is not identified on the planting plan shall be retained.
- d. A 6' tall, 90% opaque cedar fence shall be installed and maintained along the east and north lines of the Property in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
- e. One monument sign shall be installed on the Property in the location identified on the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City. Said monument sign shall include a base measured no greater than 24" in height. The sign face shall not exceed 12.75 square feet in gross area. Total sign and base height shall not exceed 66" in overall height measured from the grade level. The sign face width shall be no greater than 54". Sign shall be illuminated from the ground (not internally illuminated). Sign lighting shall not operate between the hours of 8pm and 7am. No exterior wall signs or interior mounted window signs shall be permitted.
- f. All exterior building and site lighting shall be in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 and in accordance with building plans approved on October 9, 2002 on file at the Community Development Department of the City except that no exterior building mounted lights shall be allowed on the north, east or west building elevations. In addition, no ground mounted exterior building lighting shall be allowed on any building elevation.

- g. Storm water shall be directed into the City storm sewer in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- h. All building entries, sidewalks and patio areas shall be in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- i. The trash enclosure shall be constructed in the location and manner as identified on the site / landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
- j. Both floors of the building shall be operated as a single unit with the primary entrance to the building being on the upper floor. The building use shall be limited to professional office with NO retail component of any kind: This shall include the office of a physician, dentist, osteopath, chiropractor, optometrist, chiropodist, or similar profession; and business or professional offices including the following: law, engineering, architecture, urban planning, real estate, insurance, accounting or bookkeeping, and similar uses, but not including uses involving retail sales or non-professional services.
- k. Exterior building materials shall conform to the building plans approved on October 9, 2003 with the following exception: Paint color of all siding materials shall be one color with the exclusion of the brick. Trim color may be different than the siding material. The siding and trim color shall be complimentary to the brick in a muted, light, earth tone. Roofing materials shall be asphalt shingles that are complimentary in color to the building.
- l. Existing shrubs along the north line of the Property (owned by the adjacent property owner) shall be protected during construction.
- m. The foregoing conditions are in replacement of those conditions imposed pursuant to Ordinance No. 14,067 passed March 18, 2002 and Ordinance No. 14,303 passed December 8, 2003, which shall no longer apply to the Property.

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:



Glenna K. Frank
Assistant City Attorney

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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: Bobmar, LC (Owner)
Grantee's Name: City of Des Moines, Iowa
Legal Description: Lots 1 and 2, (Except 63rd Street Right-Of-Way) in WALDRON PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.
(Herein "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Bobmar, LC is the titleholder of 1233 63rd Street, legally 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 revised Limited "C-1" Neighborhood Retail Commercial District, we 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 Property:
 - a. Only one building may be constructed or maintained on the Property. Accessory structures are not permitted. The building shall not exceed a total of 5,400 square feet (2,755 gross square feet on the upper floor and 2,645 gross square feet on the lower level). Gross square footage shall be measured from the outside face of all exterior walls. The exterior dimensions of the building cannot be changed.
 - b. The Property shall be landscaped and maintained in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
 - c. The building and parking shall be configured in accordance with a revised Site Plan that shall be kept on file with the City. This shall provide a landscape plan that is generally the plan signed by the Planning Director on 9/25/03, but with the following modifications:

- i. The twelve (12) Dark Green Arborvitae trees to the east of the building shall be replaced by two (2) Black Gum or Eastern Red Bud trees.
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 - iii. The landscape island within the parking may be eliminated.
 - iv. The overstory tree to the southwest of the building that is not identified on the planting plan shall be retained.
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- d. A 6' tall, 90% opaque cedar fence shall be installed and maintained along the east and north lines of the Property in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City.
- e. One monument sign shall be installed on the Property in the location identified on the site/landscape plan signed by the Planning Director on 9/25/03 which is on file in the Community Development Department of the City. Said monument sign shall include a base measured no greater than 24" in height. The sign face shall not exceed 12.75 square feet in gross area. Total sign and base height shall not exceed 66" in overall height measured from the grade level. The sign face width shall be no greater than 54". Sign shall be illuminated from the ground (not internally illuminated). Sign lighting shall not operate between the hours of 8pm and 7am. No exterior wall signs or interior mounted window signs shall be permitted.
- f. All exterior building and site lighting shall be in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 and in accordance with building plans approved on October 9, 2002 on file at the Community Development Department of the City except that no exterior building mounted lights shall be allowed on the north, east or west building elevations. In addition, no ground mounted exterior building lighting shall be allowed on any building elevation.
- g. Storm water shall be directed into the City storm sewer in accordance with the site/landscape plan signed by the Planning Director on 9/25/03 on file at the Community Development Department of the City.
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- j. Both floors of the building shall be operated as a single unit with the primary entrance to the building being on the upper floor. The building use shall be limited to professional office with NO retail component of any kind: This shall include the office of a physician, dentist, osteopath, chiropractor, optometrist, chiropodist, or similar profession; and business or professional offices including the following: law, engineering, architecture, urban planning, real estate, insurance, accounting or bookkeeping, and similar uses, but not including uses involving retail sales or non-professional services.

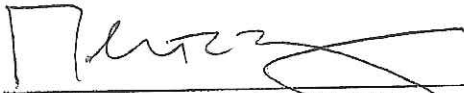
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- k. Exterior building materials shall conform to the building plans approved on October 9, 2003 with the following exception: Paint color of all siding materials shall be one color with the exclusion of the brick. Trim color may be different than the siding material. The siding and trim color shall be complimentary to the brick in a muted, light, earth tone. Roofing materials shall be asphalt shingles that are complimentary in color to the building.
- l. Existing shrubs along the north line of the Property (owned by the adjacent property owner) shall be protected during construction.
- m. The foregoing conditions are in replacement of those conditions imposed pursuant to Ordinance No. 14,067 passed March 18, 2002 and Ordinance No. 14,303 passed December 8, 2003, which shall no longer apply to the Property.

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.


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.

BOBMAR, LC


 By: ROBERT C. MARGEAS
 Its: PRESIDENT

State of Iowa)
) ss:
 County of Polk)

This instrument was acknowledged before me on November 7th, 2017, by Robert Margeas as President of Bobmar, LC.


 Notary Public in and for the State of Iowa

