



Roll Call Number

Agenda Item Number

W9B

Date August 20, 2018

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 4455 and 4465 Hubbell Avenue from the "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District classification",

which was considered and voted upon under Roll Call No. 18-_____ of August 20, 2018; again presented.

Moved by _____ that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass.

ORDINANCE NO. _____

NOTE: Waiver of this rule is requested by Kenneth and Angelia Lawler.

FORM APPROVED:



Glenna K. Frank
Assistant City Attorney

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.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

City Clerk

SZB
~~10-1373~~
49B

Mayor and City Council
City of Des Moines
400 Robert D. Ray Drive
Des Moines, IA 50309

RE: Proposed rezoning of property located in the
vicinity of the 4455 and 4465 Hubbell Avenue

To the Mayor and City of Des Moines City Council:

Please accept this request to waive the three required readings of the ordinance to rezone the above
referenced real property.

Thank you.

Sincerely,



Signature

By: Kenneth Hawler

Its: Ken

Angelia E. Lawler

Angelia E. Lawler

AEL

FILED

2010 JUL 24 PM 1:26

CITY CLERK
DES MOINES, IA

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: Kenneth L. Lawler, Angelia E. Lawler, d/b/a Great Plains Garden Center, Inc. (Titleholders)
and Francis Stroud (Tenant/Potential Purchaser)
Grantee's Name: City of Des Moines, Iowa
Legal Description: LOT 7 AND THE WEST 60 FEET OF LOT 8 (EXCEPT THE WEST 2.0 FEET LYING
ADJACENT TO AND PARALLEL TO THE SOUTH ROW LINE OF U.S. HIGHWAY 6)
OF CAPITOL HEIGHTS, PLAT NO. 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 state, warrant and agree as follows:

1. That Kenneth L. Lawler and Angelia E. Lawler, husband and wife, d/b/a Great Plains Garden Center, Inc. are the sole titleholders and Francis Stroud is the tenant/potential purchaser of the Property located at 4455 and 4465 Hubbell Avenue and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial 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) Sidewalks shall be constructed along the adjoining public street frontages as required and allowed by Traffic Engineering with any Site Plan development.
- (2) Vehicular driveway access for the property shall only be developed from East 44th Street.
- (3) Any change of use of the existing building shall require a review of a Site Plan and Commercial Building Plans with approval and issuance of all necessary permits by the City's Permit and Development Center.

(4) The following uses of the property shall be prohibited:

- a. Adult Entertainment Business,
- b. Off-Premises Advertising Signs,
- c. Vehicle Display Lots,
- d. Businesses Selling Liquor,
- e. Pawn Brokers,
- f. Delayed Deposit Services; and
- g. Taverns/Nightclubs.

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.

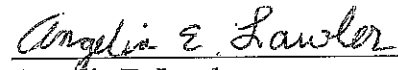
The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

KENNETH L. LAWLER (Owner)

ANGELIA E. LAWLER (Owner)



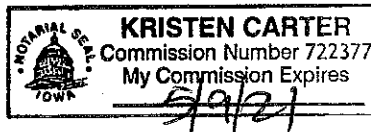
Kenneth L. Lawler



Angelia E. Lawler

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 24 July, 2018,
by Kenneth L. Lawler.





Notary Public in the State of Iowa

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on 24 July, 2018,
by Angelia E. Lawler.





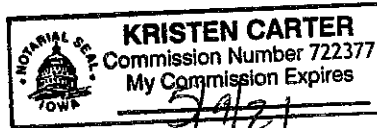
Notary Public in the State of Iowa

GREAT PLAINS GARDEN CENTER, INC.

Kenneth L. Lawler
By: Kenneth L. Lawler
Owner/President

State of Iowa)
County of Polk) ss:

On this 24 day of July, 2018, before me, a notary public, personally appeared Kenneth L. Lawler, to me personally known, who being by me duly sworn did say that he/she is the Owner/President of Great Plains Garden Center, Inc., an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that he/she, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him/her voluntarily executed.



Kristen Carter
Notary Public in the State of Iowa

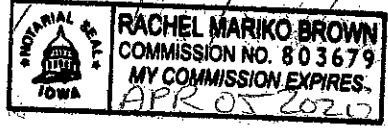
FRANCIS STROUD (Tenant/Potential Purchaser)

Frances Elizabeth Stroud
Francis Stroud

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on August 16, 2018,
by Francis Stroud.
FRANCES

Rachel Mariko Brown
Notary Public in the State of Iowa



~~SPOUSE OF FRANCIS STROUD (If Any)~~

~~By: _____~~

~~State of Iowa)
) ss:
County of Polk)~~

~~This instrument was acknowledged before me on _____, 2018,
by _____, spouse of Francis Stroud.~~

~~_____
Notary Public in the State of Iowa~~