

Date..... April 10, 2006

WHEREAS, on March 6, 2006, by Roll Call No. 06-434, it was duly resolved by the City Council that the application of Forget Properties L.L.C., represented by Norman Forget, an officer, to rezone certain property it owns in the vicinity of 1411 SE 14th Street, more fully described below, be set down for hearing on March 20, 2006, at 5:00 P.M., in the Council Chamber of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on March 30, 2006, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

Beginning at the Southwest corner of Lot 15, Lesan Heights, an Official Plat; thence South 00°54'32" West 318.05 feet to a point; thence North 89°40'55" West 372.24 feet to a point; thence North 00°01'48" West 329.69 feet to a point; thence South 89°42'50" East 367.18 feet to a point on the West line of said Lesan Heights; thence South 00°54'32" East, 11.91 feet along said West line to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.(hereinafter referred to as the "Property").

from the "R1-70" One-Family, Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- A. The following uses of structures and land shall NOT be permitted upon the Property:
 1. Multiple-family residential dwellings;
 2. Adult entertainment businesses;
 3. Garages for general motor vehicle repair;
 4. Package goods stores for the sale of alcoholic beverages;
 5. Vehicle display lots, including but not limited to used car sales lots;
 6. Off-premises advertising signs; and,
 7. Taverns/nightclubs.

(continued)

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- B. Any building upon the Property used for a commercial use shall have 75% of all non-glazed exterior wall surfaces constructed of brick, split face concrete masonry units, stone, EFIS/stucco, or other materials approved by the Community Development Director as being of similar quality and durability. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EFIS/stucco or EFIS.
- C. Any freestanding signs permitted must be ground mounted with a brick or masonry block pedestal compatible with the primary building material.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "C-2" General Retail and Highway Oriented Commercial District are hereby overruled, and the hearing is closed.
2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| BROOKS | | | | |
| COLEMAN | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| KIERNAN | | | | |
| VCLASSIS | | | | |
| 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