

Date..... April 10, 2006

WHEREAS, on March 20, 2006, by Roll Call No. 06-529, it was duly resolved by the City Council that the application of Dominic Formaro, to rezone certain property he owns in the vicinity of 3004 E. 38th Street, more fully described below, be set down for hearing on April 10, 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:

Except the West 100 feet and except the East 13 feet, Lots 102 and 103, Grand View Acres, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (the "Property").

from the "R1-70" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail 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 Property shall not be converted from its current office use to any other commercial use until a site plan has been approved by the City's Permit and Development Center that conforms with all City regulations, including but not limited to storm water, landscaping, parking, and building code requirements.
- B. If the Property is converted from its current office use to any other commercial use allowed in the "C-1" District, the Property shall be brought into substantial conformance with the approved site plan within six months after such other commercial use is commenced.
- C. The following uses of structures and land shall be prohibited upon the Property:
  - (1) Automotive and motorcycle accessory and parts stores.
  - (2) Gas stations, and businesses engaged in automobile repairs.
  - (3) Package goods stores for the sale of alcoholic beverages.
  - (4) Lawn mower repair shops, and businesses engaged in small engine repair.
  - (5) Pawn shops.

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- (6) Title loan and check cashing businesses.
- (7) Theaters

D. Any retail business or service establishment upon the Property may be open to the public only between the hours of 6 a.m. to 11 p.m. on Monday through Thursday, and between the hours of 6 a.m. to 1 a.m. the following morning on Friday and Saturday. Any restaurant upon the Property shall not be open on Sundays.

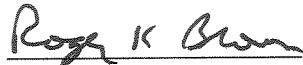
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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-1" Neighborhood Retail 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  
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
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

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Request from Dominic Formaro (owner) to rezone property located at 3004 East 38 <sup>th</sup> Street.			File # ZON2006-00015	
<b>Description of Action</b>	Rezone property from "R1-70" One-Family Low-Density Residential District to "C-1" Neighborhood Retail Commercial District to allow conversion of the property for restaurant use.			
<b>2020 Community Character Plan</b>	Low-Density Residential			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"R1-70" One-Family Low-Density Residential District			
<b>Proposed Zoning District</b>	"C-1" Neighborhood Retail Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	6	2	0	<20%
<b>Plan and Zoning Commission Action</b>	<b>Approval</b>	11-2	<b>Required 6/7 Vote of the City Council</b>	Yes
	<b>Denial</b>			No

Dominick Formaro - 3004 E 38th Street

ZON2006-00015

