

★ **Roll Call Number**

Agenda Item Number

24

.....
Date December 4, 2006

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 16, 2006, its members voted 13-0 to recommend **APPROVAL** of a request from Rick A. Lee (owner) to rezone property located at 3510 Cottage Grove Avenue from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District, subject to the following limitations:

- A. Permitted uses on the site shall be limited to the following:
 - 1. Any used as permitted in the "R1-60" District.
 - 2. Office space, subject to the following limitations:
 - a) There shall be no more than 1,848 square feet of floor area within any structure.
 - b) Outdoor storage of materials, trailers, and equipment shall be prohibited.
 - c) All refuse and trash disposal containers shall be contained within a solid enclosure that complies with the Site Plan regulations.
 - d) Landscaping and screening shall be provided in accordance with the Des Moines Landscape Standards for "C-1" District.
 - e) Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
 - f) Business hours shall be limited to between 6:00 AM and 10:00 PM.
- B. Retention of the three existing overstory trees along the southern boundary of the site.
- C. All improvements made to the site shall be in substantial compliance with a site plan as approved by the Permit and Development Center.

The subject property is further described as:

Lot 2 in Wessex, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(Continued)

★ **Roll Call Number**

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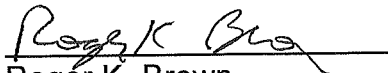
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on December 18, 2006, at which time the City Council will hear both those who oppose and those who favor the proposal.

2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney

(ZON2006-00170)

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

MOTION CARRIED

APPROVED

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.

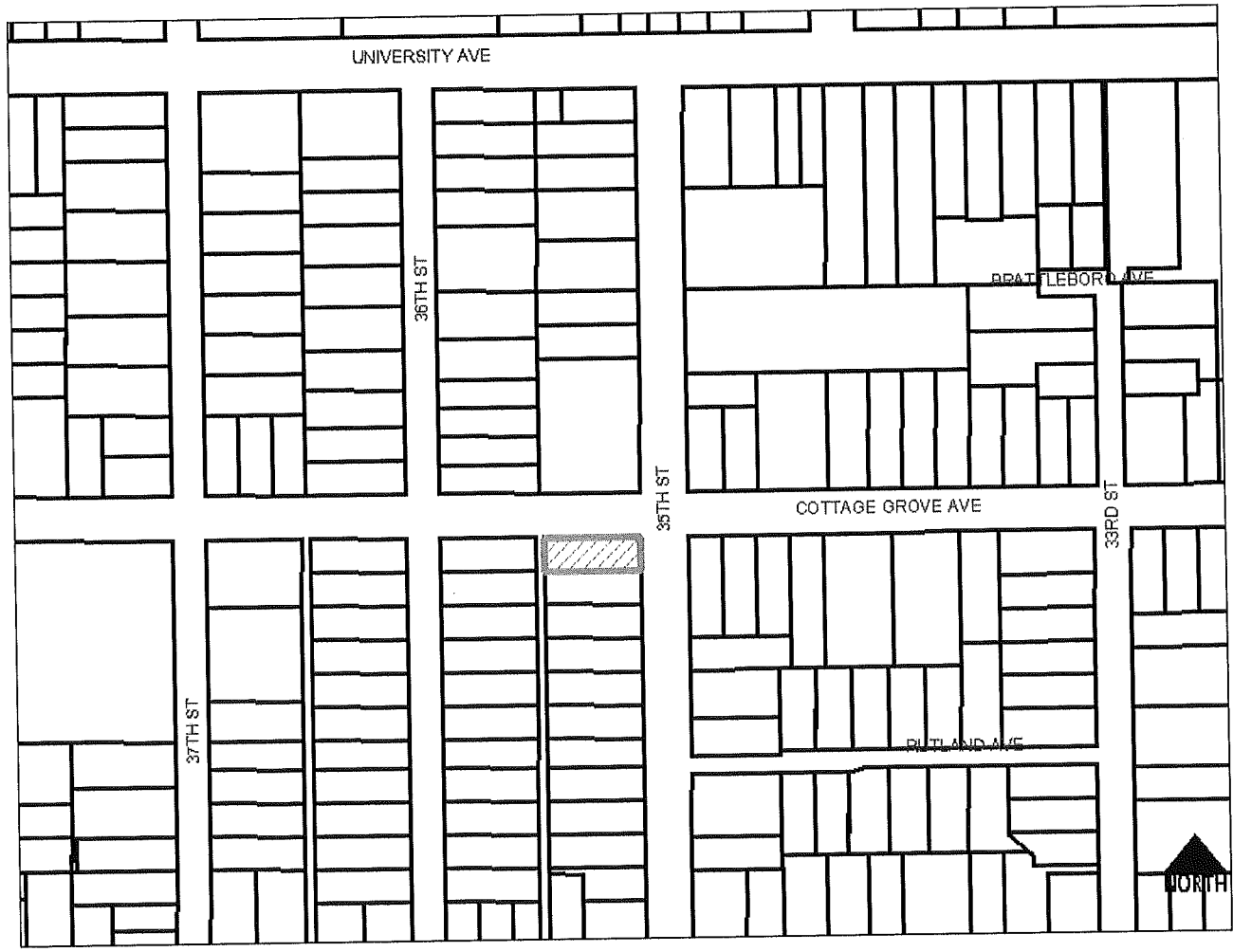
_____ Mayor

_____ City Clerk

Request from Rick A. Lee (owner) to rezone property located at 3510 Cottage Grove Avenue.				File # ZON2006-00170	
Description of Action		Rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway-Oriented Commercial District, to allow reuse of the premises as a business office for a home renovation contractor.			
2020 Community Character Plan		Low-Density Residential.			
Horizon 2025 Transportation Plan		No Planned Improvements.			
Current Zoning District		"R1-60" One-Family Low-Density Residential District.			
Proposed Zoning District		"C-2" General Retail and Highway-Oriented Commercial District.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Inside Area					
Outside Area		5	4	0	<20%
Plan and Zoning Commission Action		Approval	13-0	Required 6/7 Vote of the City Council	
		Denial		Yes	
				No	X

Ricky Lee - 3510 Cottage Grove Avenue

ZON2006-00170



Date 12-4-06

December 4, 2006

Agenda Item 24

Honorable Mayor and City Council
City of Des Moines, Iowa

Roll Call # _____

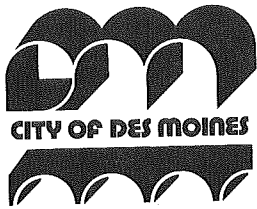
Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held November 16, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Brian Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace				X



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

APPROVAL of a request from Rick A. Lee (owner) to amend the Des Moines 2020 Community Character Land Use Plan future land use designation from Low Density Residential to Pedestrian-oriented Neighborhood Node for property located at 3510 Cottage Grove Avenue. (21-2006-4.18)

By same motion and vote, members moved for **APPROVAL** of a request to rezone subject property from Rick A. Lee (owner) to rezone subject property from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District, subject to the following limitations: (ZON2006-00170)

- A. Permitted uses on the site shall be limited to the following:
 1. Any uses as permitted in the "R1-60" District.
 2. Office space, subject to the following limitations:
 - a) There shall be no more than 1,848 square feet of floor area within any structure.
 - b) Outdoor storage of materials, trailers, and equipment shall be prohibited.
 - c) All refuse and trash disposal containers shall be contained within a solid enclosure that complies with the Site Plan regulations.
 - d) Landscaping and screening shall be provided in accordance with the Des Moines Landscape Standards for "C-1" District.
 - e) Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
 - f) Business hours shall be limited to between 6:00 AM and 10:00 PM.

- B. Retention of the three existing overstory trees along the southern boundary of the site.
- C. All improvements made to the site shall be in substantial compliance with a site plan as approved by the Permit and Development Center.

Written Responses

5 In Favor

4 In Opposition

This item would not require a 6/7 vote at City Council.

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends approval of the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Pedestrian-oriented Neighborhood Node.

Part B) Staff recommends that the proposed rezoning to a Limited "C-1" District classification be found in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Auto-Oriented Small-Scale Strip Development.

Part C) Staff recommends rezoning the property to a Limited "C-1" Neighborhood Retail District subject to the following limitations:

1. Permitted uses on the site are limited to the following:
 - a. Any used as permitted in the "R1-60" District.
 - b. Office space, subject to the following limitations:
 - i. There shall be no more than 1,848 square feet of floor area within any structure.
 - ii. Outdoor storage of materials, trailers, and equipment shall be prohibited.
 - iii. All refuse and trash disposal containers shall be contained within an enclosure that complies with the Site Plan regulations.
 - iv. Landscaping and screening shall be provided in accordance with the Des Moines Landscape Standards for "C-1" District.
 - v. Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
 - vi. Business hours shall be limited to between 6:00 AM and 10:00 PM.
2. Retention of the three existing overstory trees along the southern boundary of the site.
3. All improvements made to the site shall be in substantial compliance with a site plan as approved by the Permit and Development Center.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone the parcel in order to utilize the existing structure for a commercial office use. According to the submitted site sketch, the existing 1,848-square foot structure would be renovated and a 5-stall off-street parking lot would be constructed with a one-way access drive from Cottage Grove Avenue exiting to 35th Street.

Any reuse of the existing structure for a commercial use would be subject to compliance with the building code and issuance of all necessary permits from the Permit and Development Center. In addition, any commercial reuse of the site would be subject to review and approval of a site plan by the Permit and Development Center staff.

2. **Size of Site:** 50' x 141' or 7,050 square feet (0.16 acre).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The parcel includes a 44' x 42' (1,848 square feet) commercial structure oriented toward Cottage Grove Avenue on the western portion of the lot. The balance of the site is open space.

5. **Adjacent Land Use and Zoning:**

North - "R1-60", Uses are east/west Cottage Grove Avenue and the Greek Orthodox Church of Saint George.

South - "R1-60", Use is a three-family residential dwelling.

East - "R1-60", Uses are north/south 35th Street and a two-family dwelling.

West - "R1-60", Uses are a north/south alley and a single-family residential dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located in a mixed-density residential area.
7. **Applicable Recognized Neighborhood(s):** Drake Neighborhood.
8. **Relevant Zoning History:** NA.
9. **2020 Community Character Land Use Plan Designation:** Low Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Permit and Development Center Comments:** Renovation and reuse of the existing structure for a commercial use would be subject to compliance with the building code and issuance of all necessary permits from the Permit and Development Center. In addition, any commercial reuse of the site would be subject to review and approval of a site plan by the Permit and Development Center staff.
2. **Drainage/Grading:** Construction of any parking lot on the site would be subject to compliance with an approved site plan that satisfies the City's standards for storm water management.

3. **Landscaping & Buffering:** The applicant will be required to provide landscaping in conformance with the Des Moines Landscape Standards for any commercial use of the subject property. This will require bufferyard setbacks, plantings and screening from the residential properties to the south, as well as a minimum 20% open space and plantings.

According to the submitted site sketch, the 3 existing overstory trees along the southern boundary of the site would remain.

4. **Traffic/Street System:** The subject property is located at the southwest corner of Cottage Grove Avenue and 35th Street. The adjoining streets can adequately accommodate traffic generated by an office use.
5. **Access or Parking:** According to the submitted site sketch, the applicant would construct a 5-stall off-street parking lot with a one-way access drive from Cottage Grove Avenue exiting to 35th Street. The existing 1,848-square foot structure would require 5 stalls (1 stall per 400 square feet of office space).
6. **2020 Community Character Plan:** Although the applicant has proposed rezoning to a "C-2" General Retail and Highway-Oriented Commercial District classification, the proposed office use would be permitted under the "C-1" Neighborhood Retail Commercial District zoning classification. Staff believes that a Limited "C-1" District classification would be appropriate for the site, as it would allow reuse of an existing commercial structure while having minimal impacts on the surrounding neighborhood. Staff believes that it is reasonable to allow commercial reuse of the structure that was originally constructed for a commercial use. The Limited "C-1" District zoning classification is in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Pedestrian-oriented Neighborhood Node.
7. **Additional Information:** Staff believes that any use of the property for an office use should be subject to the following limitations on the entire property:
 - a. There shall be no more than 1,848 square feet of floor area within any structure.
 - b. Outdoor storage of materials, trailers, and equipment shall be prohibited.
 - c. All refuse and trash disposal containers shall be contained within an enclosure that complies with the Site Plan regulations.
 - d. Landscaping and screening shall be provided in accordance with the Des Moines Landscape Standards for "C-1" District.
 - e. Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
 - f. Business hours shall be limited to between 6:00 AM and 10:00 PM.

SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation. C-2 was recommended at the time of the pre-application meeting and the original application was notified as C-2, but the recommendation is actually to go to a Limited C-1. (Staff wants to encourage the reuse and renovation of an existing commercial building as a resource in the neighborhood.)

Todd Hotchkiss, 1050 45th Street, Project Architect: Noted the building will be renovated in scale with the older architecture in the neighborhood.

Rick Lee, 3931 Cottage Grove: Understood the rezoning is for Limited C-1 and indicated the neighbors can speak on their own behalf. Indicated he is in agreement with all staff recommendations.

Brian Millard: Asked if the dumpster enclosure could be 100% solid screen.

Rick Lee: Agreed.

CHAIRPERSON OPENED THE PUBLIC HEARING

Joe Fagan, 3424 Cottage Grove: Understood about the cards being received as a result of the C-2 rezoning notice. Noted he is speaking in support; they are against C-2, but in favor of limited C-1. Read a letter that he submitted for the record and presented a petition that was entered into the record.


Joe Henry, 2463 E. Highview Drive: Noted the applicant has done a tremendous job renovating his home and indicated the subject site would be excellent.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard: Moved staff recommendation to include a solid trash enclosure.

Motion passed 13-0.

Respectfully submitted,


Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2006 00170

Date 11.9.2006

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

NOV 13 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name CORY R. KONRAD

Signature [Signature]

Address 3418 COTTAGE GROVE

Reason for opposing or approving this request may be listed below:

Item 2006-00170

Date 11-7-06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

NOV 08 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name EMERSON BLOME

Signature Emerson Blome

Address 600 E. 5th St. - 10th - 36th St. Des Moines, IA

Reason for opposing or approving this request may be listed below:

If I recall correctly, 3510 Cottage Grove Avenue has been used as a location of various small business ventures for many years, without any great detriment to the neighborhood. Some old timers say it was originally a neighborhood grocery store.

Item 2006 00170

Date 11/07/06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

NOV 14 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name

Jody Swilky

Signature

Jody Swilky

Address

1155 36th Street

Reason for opposing or approving this request may be listed below:

Blank lines for text entry.

Item 2006 00170

Date 11-8-06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

NOV 08 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name

L J Sieving

Signature

LJ Sieving

Address

1089 36th St

Reason for opposing or approving this request may be listed below:

No objection.

Blank lines for text entry.

Item 2006 00170

Date 11/7/06 24

I (am) (am not) in favor of the request.
(Circle One)

RECEIVED

NOV 9 1 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name JAMES A. STORK
Signature *[Signature]*
Address 1073 35TH ST

Reason for opposing or approving this request may be listed below:

IT HAS BEEN HARD ENOUGH SHUTTING DOWN
UNDESIRABLE BUSINESS IN THE PAST. HAVING IT
ZONED C-2 WILL MAKE IT EVEN HARDER.
THIS IS A RESIDENTIAL NEIGHBORHOOD AND THE
ZONING SHOULD REFLECT THIS

Item 2006 00170

Date 09 NOV 06

I (am) (am not) in favor of the request.
(Circle One)

RECEIVED

NOV 14 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name DIANE GOOSBURY
Signature *[Signature]*
Address 1100.36

Reason for opposing or approving this request may be listed below:

THIS NEIGHBORHOOD WILL NOT SUPPORT
A C-2 ZONING AT THE MOST
MAYBE A C-1 or C-0

Item 2006 00170

Date 11-9-06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED
NOV 13 2006
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Felipe Sinnwell

Signature Felipe Sinnwell

Address 1078-36th

Reason for opposing or approving this request may be listed below:

I would like to retain this quiet
family oriented neighborhood and I
would like to retain it.

Item 2006 00170

Date 11-12-06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED
NOV 15 2006
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Paul A. Mineart

Signature Paul A. Mineart

Address 3419 Cottage Grove

Reason for opposing or approving this request may be listed below:

would open up Area 70 to more
Commercial enterprises

Item 2006 00170

Date 11-9-06

I (am) (am not) in favor of the request.
(Circle One)

RECEIVED

NOV 7 4 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Jeanette Gaugan

Signature Jeanette Gaugan

Address 1103 36th St DSM IA 50314

Reason for opposing or approving this request may be listed below:

Building needs to be torn down to prevent
future zoning issues and bad businesses from
destroying our neighborhood. I have had
nothing but problems out of this building
and think it should be torn down for
the good of the neighborhood

November 16, 2006

A petition in support of rezoning 3510 Cottage Grove to C1 with restrictions:

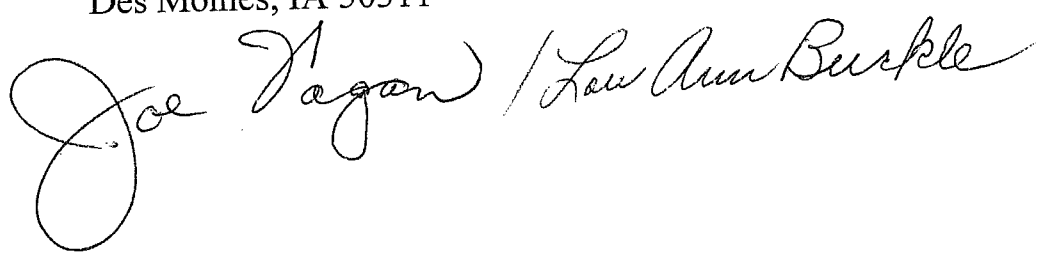
To members of the Des Moines Plan and Zoning Commission:

We support Rick and Charlotte Lee rehabbing the building and lot at 3510 Cottage Grove to be a non-retail office building with a change to C1 zoning with restrictions.

The building, as shown in the architectural drawing, is a great improvement to anything that has been there over the past 27 years since we have lived across the street from it.

The attached sheet is a petition signed by 8 people in support of Rick and Charlotte Lee's request for rezoning 3510 Cottage Grove to C1 with restrictions. The 8 people are owners of 6 properties located within 250 feet of 3510 Cottage Grove. The petition was unanimously signed at an informational meeting on November 14th.

Joe Fagan and Lou Ann Burkle
3424 Cottage Grove
Des Moines, IA 50311

A handwritten signature in cursive script that reads "Joe Fagan / Lou Ann Burkle". The signature is written in black ink and is positioned below the typed names of the signatories.

Nov 14, 2005

We support the rezoning change ~~to~~ of 3570 Cottage Grove
to C1R

Joe Fagan 3424 Cottage Grove, Des Moines, IA

Mary Gierard 1074 35th St

Laur Ann Buskle 3424 Cottage Grove DM

Diane Nicholson 1069 35th St. DM

~~Marshall~~ Lore Crusan 1070 35th St An

Marshall Crusan 1070 35th St DM 50311

Dolores Semmell 1078 36th DM 50311

Hilteiber 1070 36th