

★ **Roll Call Number**

Agenda Item Number

67C

Date..... December 18, 2006

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 3510 Cottage Grove Avenue from the "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District classification",

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
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

67C

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 3510 Cottage Grove Avenue from the "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District classification.

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 3510 Cottage Grove Avenue, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District classification:

Lot 2, Wessex, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein the "Property").

Sec. 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 the following uses of structures and land shall be permitted upon the Property:
 - 1) Any use permitted and as limited in the "R1-60" One-Family, Low-Density Residential District.
 - 2) Office use, subject to the following limitations:
 - (a) No more than 1,848 square feet of interior building space shall be devoted to the office use.
 - (b) Outdoor storage of materials, trailers and equipment shall be prohibited.
 - (c) All refuse and trash disposal containers shall be contained within a solid (100% opaque) enclosure that complies with the Site Plan Regulations.
 - (d) Landscaping and screening shall be provided by May 1, 2007, in accordance with the Des Moines Landscape Standards applicable to the "C-1" District.

- (e) Any vehicles parked on the Property shall be parked within a marked parking space in accordance with an approved Site Plan.
- (f) Business hours shall be limited to between 6:00 a.m. and 10:00 p.m.
- (g) The site shall be improved and maintained in substantial conformance with an approved site plan.

B. The three existing overstory trees along the southern boundary of the Property shall be retained and preserved to the extent feasible.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 4. That the City Clerk is hereby authorized and directed to cause a certified copy of the Rezoning Ordinance Acceptance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

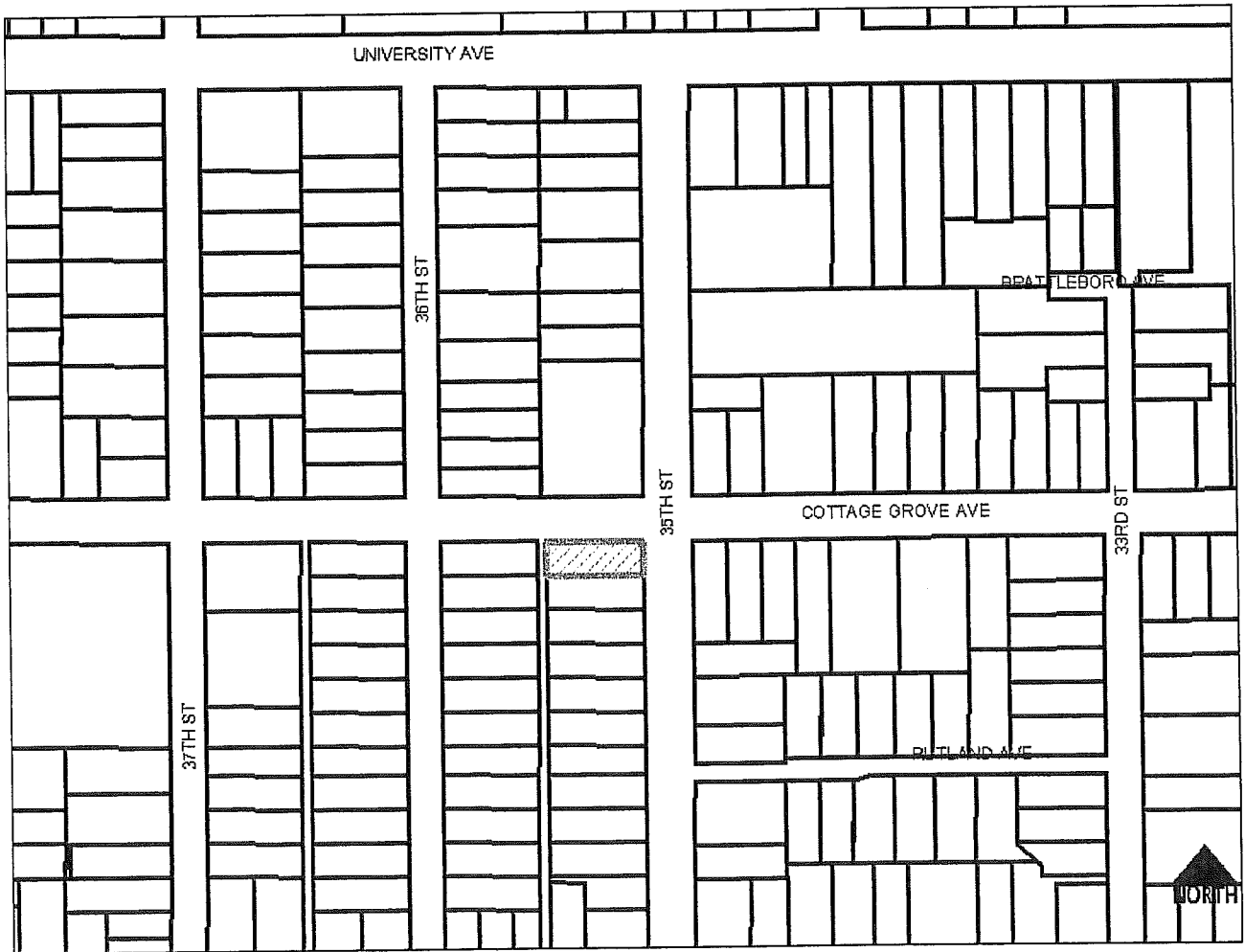
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67C

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	Yes
	Denial			No

Ricky Lee - 3510 Cottage Grove Avenue

ZON2006-00170



Prepared by: Roger K. Brown, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309
515/283-4541
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: First Contract, Corp., Rick A. Lee and Charlotte A. Lee
Grantee's Name: City of Des Moines, Iowa
Legal Description:

Lot 2, Wessex, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

(1) That First Contract Corp (d/b/a First Contract Inc.), as titleholder, and Rick A. Lee and Charlotte A. Lee, as contract purchasers, are the sole owners of the Property in the vicinity of 3510 Cottage Grove Avenue, more specifically described above.

(2) That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District classification, 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:

- A. Only the following uses of structures and land shall be permitted upon the Property:
- 1) Any use permitted and as limited in the "R1-60" One-Family, Low-Density Residential District.
 - 2) Office use, subject to the following limitations:
 - (a) No more than 1,848 square feet of interior building space shall be devoted to the office use.
 - (b) Outdoor storage of materials, trailers and equipment shall be prohibited.
 - (c) All refuse and trash disposal containers shall be contained within a solid (100% opaque) enclosure that complies with the Site Plan Regulations.

- (d) Landscaping and screening shall be provided by May 1, 2007, in accordance with the Des Moines Landscape Standards applicable to the "C-1" District.
- (e) Any vehicles parked on the Property shall be parked within a marked parking space in accordance with an approved Site Plan.
- (f) Business hours shall be limited to between 6:00 a.m. and 10:00 p.m.
- (g) The site shall be improved and maintained in substantial conformance with an approved site plan.

B. The three existing overstory trees along the southern boundary of the Property shall be retained and preserved to the extent feasible.

(3) A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document 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.

(4) That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "C-1", then this Acceptance shall be immediately terminated as applied to the real estate so rezoned on the effective date of such rezoning, and the conditions agreed to herein shall be rendered null and void, provided, if there be any such rezoning to a more restricted zoning classification, any then legal actual use of such real estate shall become a legal non-conforming use.

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.

Rick A. Lee

Charlotte A. Lee

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this _____ day of December, 2006, before me, the undersigned a Notary Public in and for Polk County, Iowa, personally appeared **Rick A. Lee** and **Charlotte A. Lee**, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public
My commission expires: _____

First Contract Corp.,
an Iowa corporation

By: _____
Steven R. Smith, President

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED, that on this ____ day of December, 2006, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared **Steven R. Smith**, to me personally known, who, being by me duly sworn did say that he is the President of **First Contract Corp**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that he acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, and by it and by him voluntarily executed.

Notary Public
My commission expires: _____