



**Roll Call Number**

**Agenda Item Number**

44

**Date** July 15, 2013

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 3629 59<sup>th</sup> Street from the R-3 Multiple Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District classification",

which was considered and voted upon under Roll Call No. 13- 1033 of June 24, 2013; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				

**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

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 3629 59<sup>th</sup> Street from the R-3 Multiple Residential District to a Limited C-2 General Retail and Highway Oriented 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 3629 59<sup>th</sup> Street, more fully described as follows, from the R-3 Multiple Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District classification:

The North 83 feet of the West 109.78 feet, Lot 40, Clover Acres, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Section 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:

- 1) The following uses of the land and structures shall not be permitted upon the Property:
  - a. Adult entertainment business.
  - b. Delayed deposit services businesses.
  - c. General motor vehicle repair.
  - d. Liquor stores.
  - e. Off premises advertising signs.
  - f. Pawnbroker.
  - g. Taverns and nightclubs.
  - h. Vehicle display lot.

- 2) No building shall be constructed on the southern 25 feet of the subject property so long as the adjoining property to the south is within an "R" District.

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

Section 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, 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:



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Michael F. Kelley  
Assistant City Attorney

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Prepared by:	Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
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:	5824 LLC
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	The North 83 feet of the West 109.78 feet, Lot 40, Clover Acres, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That 5824 LLC is the sole owner of the Property in the vicinity of 3629 59<sup>th</sup> Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the R-3 Multiple Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District classification, I agree and accept 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) The following uses of the land and structures shall not be permitted upon the Property:
  - a. Adult entertainment business.
  - b. Delayed deposit services businesses.
  - c. General motor vehicle repair.
  - d. Liquor stores.
  - e. Off premises advertising signs.
  - f. Pawnbroker.
  - g. Taverns and nightclubs.
  - h. Vehicle display lot.

2) No building shall be constructed on the southern 25 feet of the subject property so long as the adjoining property to the south is within an "R" District.

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.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited C-2, 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.

5824 LLC



Andy Burton

State of Iowa            )  
                                          ) ss:  
County of Polk            )

This instrument was acknowledged before me on JUNE 18, 2013, by Andy Burton as the Member of 5824 LLC, an Iowa limited liability company, on behalf of whom the instrument was executed.

Renae Lampkin  
Notary Public in the State of Iowa

