

★ **Roll Call Number**

Agenda Item Number

39C

Date October 8, 2018

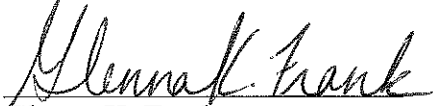
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 100 Watrous Avenue from the "R1- 70" One-Family Residential District to 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)


 Glenna K. Frank
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

 Mayor

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.

 City Clerk

Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309
Phone: 515/283-4530
Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309
Title of Document: City of Des Moines, Ordinance No. _____
Grantor/Grantee: City of Des Moines, Iowa
Legal Description: See page 1, below.

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 100 Watrous Avenue from the "R1-70" One-Family Residential District to 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 100 Watrous Avenue, more fully described as follows, from the "R1-70" One-Family Residential District to Limited "C-1" Neighborhood Retail Commercial District classification:

EXCEPT THE WEST 15 FEET OF THE NORTH 150 FEET, LOTS 1, 2, AND 3 SOUTHMOOR GARDENS, AN OFFICIAL PLAT, 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

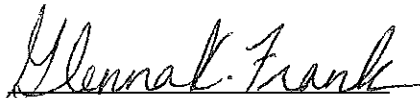
of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) Any use of the Property for Multiple-Family Residential Dwellings, Department or Retail Stores over 12,000 square feet in area, Office Buildings over 12,000 square feet in area, and Upholstery Shops shall be prohibited.
- (2) Any expansion of the existing building on the Property or redevelopment of the Property for a gas station/convenience store is subject to review and approval of a Site Plan by the Plan and Zoning Commission and by City Council under design guidelines for gas stations/convenience stores.
- (3) Any expansion or conversion of the existing building or construction of new buildings on the Property are subject to compliance with all applicable Building Codes and with all necessary permits and Certificate of Occupancy issued by the Permit and Development Center.

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

Section 4. That the City Clerk is hereby authorized and directed to cause certified copies of the Acceptance of Rezoning Ordinance, this ordinance, vicinity map and proof of publication of this ordinance to be properly filed in the office of the County Recorder of the county in which the subject property is located.

FORM APPROVED:



Glenna K. Frank
Assistant City Attorney

Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309
Phone: 515/283-4530
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: Git-N-Go Convenience Stores, Inc. (Owner)
Grantee's Name: City of Des Moines, Iowa
Legal Description: EXCEPT THE WEST 15 FEET OF THE NORTH 150 FEET, LOTS 1, 2, AND 3
SOUTHMOOR GARDENS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING
A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA
(Hereinafter "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Git-N-Go Convenience Stores, Inc. is the sole titleholder of the Property locally known as 100 Watrous Avenue and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-70" One-Family Residential District to Limited "C-1" Neighborhood Retail Commercial District, 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:

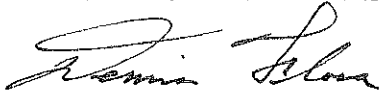
- (1) Any use of the Property for Multiple-Family Residential Dwellings, Department or Retail Stores over 12,000 square feet in area, Office Buildings over 12,000 square feet in area, and Upholstery Shops shall be prohibited.
- (2) Any expansion of the existing building on the Property or redevelopment of the Property for a gas station/convenience store is subject to review and approval of a Site Plan by the Plan and Zoning Commission and by City Council under design guidelines for gas stations/convenience stores.

- (3) Any expansion or conversion of the existing building or construction of new buildings on the Property are subject to compliance with all applicable Building Codes and with all necessary permits and Certificate of Occupancy issued by the Permit and Development Center.

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.

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.

Git-N-Go Convenience Stores, Inc.



By: Dennis Flora
Its: President

State of Iowa)
) ss:
County of Polk)

On this 26th day of September, 2018, before me, a notary public, personally appeared Dennis Flora, to me personally known, who being by me duly sworn did say that he is President of Git-N-Go Convenience Stores, Inc. an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation, and that he, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

Karen Comstock
Notary Public in and for the State of Iowa

