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91-10-006

ORDINANCE NO. 043-09

AN ORDINANCE PASSED IN ACCORDANCE WITH CHAPTER 32, AS AMENDED, OF THE MUNICIPAL CODE OF CEDAR RAPIDS, IOWA, BEING THE ZONING ORDINANCE, CHANGING THE ZONING DISTRICT AS SHOWN ON THE "DISTRICT MAP" ON THE PROPERTY MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, as follows:

Section 1. That in accordance with Chapter 32, as amended, of the Municipal Code of Cedar Rapids, Iowa, being the Zoning Ordinance, that the property (Case No. 91-10-006) described as follows;

As owned by The City of Cedar Rapids:

Lot 5, SE 70', Lot 5, SW 26' NW 70', Lot 5, NE 34' NW 70', Lots 6 and 7 all of Block 10, Carpenter's 2nd Addition, City of Cedar Rapids, Linn County, Iowa

And

The 20-foot alley lying between Lot 3 through Lot 8, Block 10, Carpenter's Second Addition to the Town of Cedar Rapids, Linn County, Iowa

As owned by Duncan Bruce Suthers:

Lot 3 and Lot 4, Block 10, Carpenter's Second Addition to the Town of Cedar Rapids, Linn County, Iowa

and located at 519, 523, and 525 9th Avenue SE and 901, 911, and 927 6th Street SE, now zoned R-TN, Traditional Neighborhood Residence Zone District, and as shown on the "District Map," be rezoned and changed to RMF-2, Multiple Family Residence Zone District, and that the property be used for such purposes as outlined in the RMF-2, Multiple Family Residence Zone District, as defined in Chapter 32 of the Municipal Code, City of Cedar Rapids, Iowa.

Section 2. That this Ordinance and the zoning granted by the terms hereof are subject to the conditions which have been agreed to and accepted prior to the passage of this Ordinance in writing (shown by attached Acceptance) by the owners and are binding upon the owners, successors, heirs, and assigns, as follows:

1. That the development of said property shall be in accord with the Site Development Plan (SDP) approved by the City Planning Commission and City Council, and all provisions of applicable zoning ordinances, building codes, and other City codes and regulations. Approval of the SDP does not waive any other requirements. All improvements indicated on the SDP shall be constructed at the cost of the developer and in accordance with City specifications unless excepted on the SDP. The SDP can be subsequently revised, or otherwise amended, by City Council resolution.

2. That, **WITH RESPECT TO VACATION OF THE EXISTING ALLEY RIGHT-OF-WAY CROSSING THROUGH THIS SITE**, the following shall apply:

- A. The developer shall submit a written request to City Council requesting vacation of the existing alley right-of-way crossing through this site. Vacation by City Council shall be completed **PRIOR CONSTRUCTION OF A BUILDING STRUCTURE OVER THE ALLEY AREA, UNLESS ENCROACHMENT PERMISSION IS GRANTED BY CITY COUNCIL.**
- B. The developer shall be responsible for relocation of existing sanitary sewer facilities (and any other utilities) located within the alley in accordance with improvement plans accepted by the City Public Works Director/City Engineer. The appropriate public utility and access easements shall be established as part of the sewer relocation and vacation of alley right-of-way.
- C. If sanitary sewer is not relocated **PRIOR TO VACATION OF THE ALLEY**, permanent or temporary easements shall be established over the sanitary sewer as part of the alley vacation.
- D. The existing sanitary sewer shall be relocated **PRIOR TO CONSTRUCTION OF ANY FOUNDATION OR BUILDING STRUCTURE OVER THE ALLEY OR EASEMENT AREA.** Temporary or permanent public utility easements may be vacated once the sanitary sewer and other utilities within the alley are relocated.

3. That, **PRIOR TO THE ISSUANCE OF A FOUNDATION PERMIT OR BUILDING PERMIT**, the following shall be accomplished:

- A. The developer shall submit to the City Public Works Department an acceptable site plan of improvements, certified by a civil engineer licensed in the State of Iowa, including the following information:
 - i. Existing and proposed contours at one-foot intervals.
 - ii. Existing and proposed utilities and easements, including existing and/or proposed sanitary and water service lines.
 - iii. Proposed development plan and building finish floor/low foundation opening elevations.
 - iv. Building Foundation Wall & Footing Cross Section adjacent to existing sanitary sewer main (scale drawing) illustrating the following:
 - v. Foundation wall & footing depth.
 - vi. Sanitary sewer location and depth relative to foundation wall & footing.
 - vii. Foundation excavation limits.
 - viii. Typical sanitary sewer pipe envelope, including trench bottom and side slopes and/or trench box, to determine if pipe can be replaced or repaired without potential undermining of the building foundation.
 - a. Proposed storm water management plan and facilities.
 - b. City sidewalk alignment and grades, street removal and replacement limits, and street right-of-way restoration plan.
 - c. Traffic control during construction.

If information represented on the site plan required above is found to be significantly different than shown, a revised site plan will be required to be approved **PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT.**

B. With respect to storm water permitting for this site, the following shall apply:

- i. The property owner shall submit to the City Public Works Director/City Engineer a copy of the Iowa DNR Storm Water permit for this site. This shall be completed **PRIOR TO GRADING ACTIVITIES COMMENCING OR PRIOR TO ISSUANCE OF A BUILDING PERMIT, WHICHEVER OCCURS FIRST.**
- ii. The property owner shall comply with all provisions of the Iowa DNR storm water permit and Municipal Code Chapter 71 "Erosion and Sediment Control for Construction Sites." This includes maintaining current inspection records weekly and after every one-half inch of rain fall, and installing and maintaining erosion and sediment control according to the approved Storm Water Pollution Prevention Plan (SWPPP).

4. That, **PRIOR TO THE ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY**, the developer shall be responsible for removal and replacement of City sidewalk adjoining this site, damaged as a result of construction activities on this site. Said removal and replacement areas shall be determined by the City Public Works Department, shall be completed by the developer, and approved by the City.

5. That the improvements proposed as part of this development shall be designed in accordance with the Cedar Rapids Metropolitan Area Engineering Design Standards.

6. That if storm water management (including water quality provisions) cannot be met according to City Design Standards and the Cedar Rapids NPDES (National Pollutant Discharge Elimination System) Permit on the approved Site Development Plan, the property owner shall be responsible to submit to the City a revised Site Development Plan meeting storm water management requirements.

7. That any required tree planting to meet city street landscape requirements on public right-of-way should utilize at least two different species and should not include any of the following:

- A. Ash
- B. Red Maple – all cultivars (Autumn Blaze, October Glory, Red Sunset, etc.)
- C. Pin Oak (as a street tree)
- D. Ornamental/Callery Pear (Bradford, Capital, Redspire, etc.)

8. That no Ash species or Ornamental/Callery Pear species may be used to meet City landscape requirements on public or private property.

9. That any landscaping planted within an electric utility right-of-way or easement must have an average mature height of 40' or less.

10. That plant materials must be named on submitted plans.

11. That future development under this rezoning action shall be subject to the Preliminary Site Development Plan review process as set forth in Section 32.02.030.G. **PRIOR TO ISSUANCE OF BUILDING PERMIT(S).** Such Development shall meet all City development standards in effect at the time of plan submittal.

12. That this site shall be developed in compliance with the provisions of the Flood Plain Management Ordinance.

Section 3. That this Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 10th day of November, 2009.

Passed this 10th day of November, 2009.

Kay Halloran, Mayor

Attest:

Amy Stevenson, Deputy City Clerk