

★ **Roll Call Number**

Agenda Item Number

SSA

Date..... February 26, 2007

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 121 - 12th Street from the "C-3A" Central Business District Support Commercial District to a Limited "C-3" Central Business District 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				
MEYER				
VLASSIS				
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.

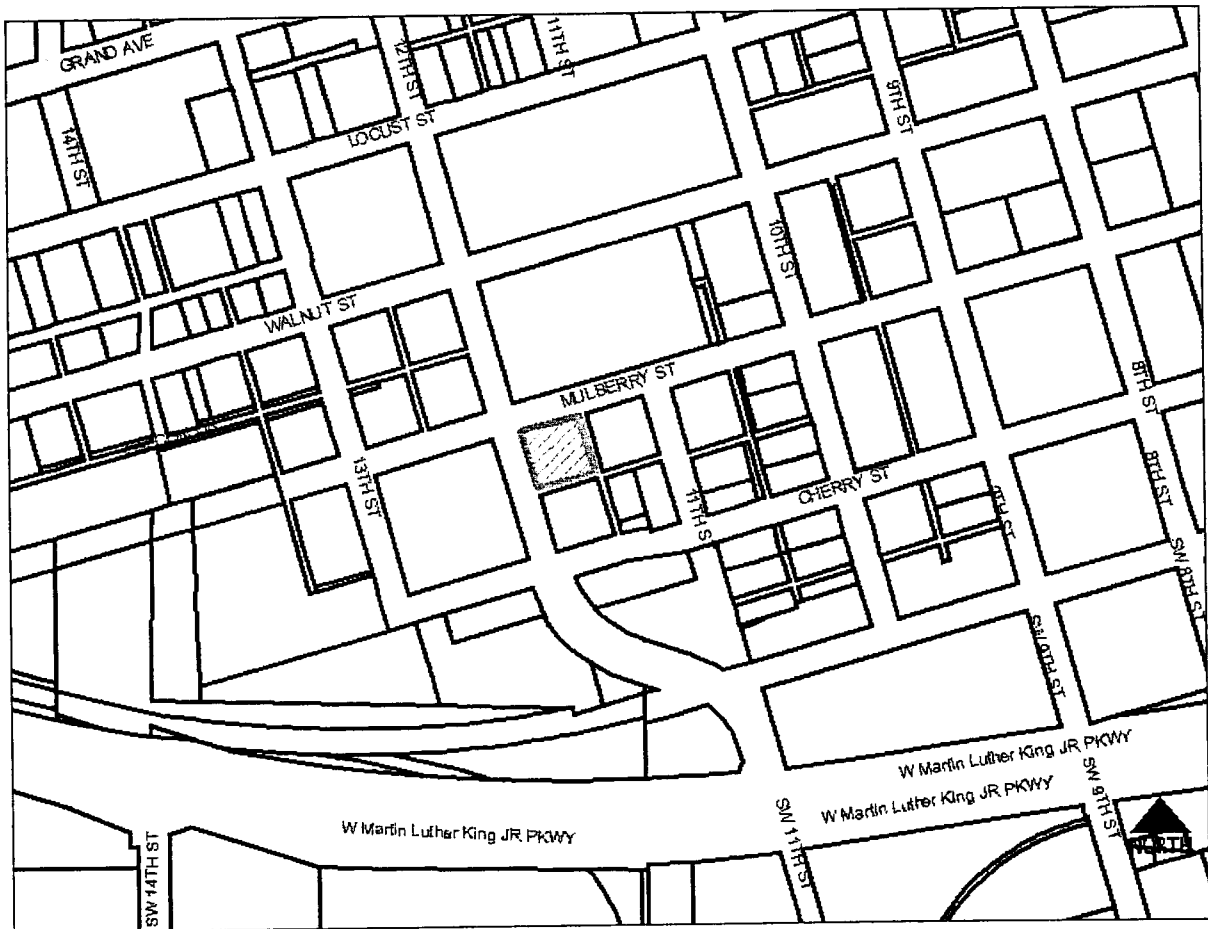
City Clerk

SSA

Request from Donald Walsmith (owner) to rezone property located at 121 12 th Street.		File #	
		ZON2006-00199	
Description of Action	Rezone property from "C-3A" Central Business District Support Commercial District to "C-3" Central Business District Commercial District, to allow conversion of a portion of the building to a live performance venue.		
2020 Community Character Plan	Downtown: High Amenity Office/Institutional		
Horizon 2025 Transportation Plan	No Planned Improvements		
Current Zoning District	"C-3A" Central Business District Support Commercial		
Proposed Zoning District	"C-3" Central Business District Commercial		
Consent Card Responses	In Favor	Not In Favor	Undetermined
Inside Area			
Outside Area	6	1	0
			% Opposition
			<20%
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council
	Denial		
			Yes
			No
			X

Don Walsmith - 121 12th Street

ZON2006-00199



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 121 - 12th Street from the "C-3A" Central Business District Support Commercial District to a Limited "C-3" Central Business District 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 121 - 12th Street, more fully described as follows, from the "C-3A" Central Business District Support Commercial District to a Limited "C-3" Central Business District Commercial District classification:

Lots 3 and 4, Bock 23, Keene and Poindexter's Addition to Fort Des Moines, 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").

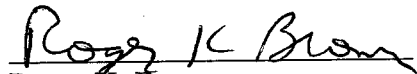
Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- A. No activity shall be permitted on the Property that emits sound at a volume that when measured at the property line of any nearby residential use, exceeds the maximum permitted sound levels applicable at the receiving property line in a "R1" single-family residential district. The benefit of this limitation is not intended to be applied to a residential use on the Property.
- B. No portion of the Property shall be used as an Adult Entertainment Business, as that term is now defined in the Zoning Ordinance of the City of Des Moines.

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 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:



Roger K. Brown

Assistant City Attorney

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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: Donald F. Walsmith, Jr., and Beverly K. Walsmith
Grantee's Name: City of Des Moines, Iowa
Legal Description:

Lots 3 and 4, Bock 23, Keene and Poindexter's Addition to Fort Des Moines, 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, Donald F. Walsmith, Jr., and Beverly K. Walsmith, hereby state, warrant and agree as follows:

1. That we are the sole owners of the Property in the vicinity of 121 - 12th Street, more specifically described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "C-3A" Central Business District Support Commercial District to a Limited "C-3" Central Business District 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. No activity shall be permitted on the Property that emits sound at a volume that when measured at the property line of any nearby residential use, exceeds the maximum permitted sound levels applicable at the receiving property line in a "R1" single-family residential district. The benefit of this limitation is not intended to applied to a residential use on the Property.

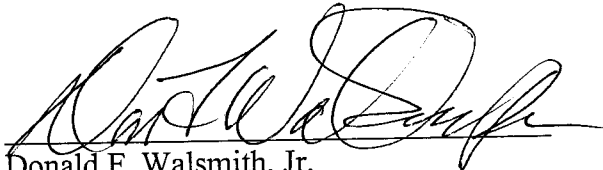
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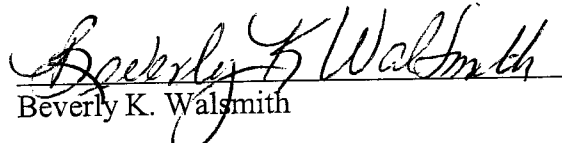
B. No portion of the Property shall be used as an Adult Entertainment Business, as that term is now defined in the Zoning Ordinance of the City of Des Moines.

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-3", 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.


Donald F. Walsmith, Jr.


Beverly K. Walsmith

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this ___ day of February, 2007, before me, the undersigned a Notary Public in and for Polk County, Iowa, personally appeared **Donald F. Walsmith** and **Beverly K. Walsmith**, 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: 11-16-07

