

Date April 26, 2010


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 4448 and 4518 East 50th Street from the A-1 Agricultural District to Limited M-1 Light Industrial District classification.

presented.

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

FORM APPROVED:

(First of three required readings)



 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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

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 4448 and 4518 East 50th Street from the A-1 Agricultural District to Limited M-1 Light Industrial 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 4448 and 4518 East 50th Street, more fully described as follows, from the A-1 Agricultural District to Limited M-1 Light Industrial District classification:

Lots 2, 3 & 4, Broadway Business Park Plat 2, AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN POLK COUNTY, IOWA.

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. The following uses of structures and land shall be prohibited upon the Property:
- a. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted;
 - b. Farms, except growing crops on any land that has not been improved;
 - c. Asphalt or concrete mixing or production facilities;
 - d. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances;
 - e. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated;
 - f. Cemeteries;
 - g. Adult entertainment businesses;

- h. Arcades or game rooms as a substantial portion of a business;
 - i. Taverns and nightclubs;
 - j. Animal rendering or slaughter facility;
 - k. Off-premises advertising signage;
 - l. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility;
 - m. Jail, prison, or any other correctional facility of any kind;
 - n. Any public or private nuisance or illegal activity;
 - o. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks;
 - p. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
 - q. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
 - r. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
 - s. Package goods store for the sale of alcoholic beverages;
 - t. Vehicle display lots, including but not limited to used car sales lot;
 - u. Pawn brokerages; and,
 - v. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.
- B. The following standards shall apply to any building hereafter constructed for mini-warehouse use:
- 1. All storage unit building walls facing external to the site shall consist of a stone, masonry, or brick exterior material, or other durable material as approved by the Community Development Director.
 - 2. No storage access doors shall be oriented toward a public street or any adjoining residential development.
 - 3. No storage access doors shall be on the south façades of either the easternmost or westernmost mini-warehouse buildings.
 - 4. Any additional fencing along East 50th Street shall be wrought iron to match that along the Broadway Avenue frontage road.
- C. Outside storage on the premises shall be prohibited.

- D. Provision of down-lit shielded lighting to avoid shining obtrusively onto adjoining properties.
- E. Sidewalks shall be installed within East 50th Street right-of-way along both the existing mini-warehouse site and the expansion site prior to the issuance of a Certificate of Occupancy for any building hereafter constructed.
- F. All facades on the exterior wall of any building facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director to be consistent with the overall development and design of Broadway Business Park.
- G. All overhead doors and loading docks on any principal or accessory building shall not face East 50th Street or East Broadway Avenue, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.

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

Sec. 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:

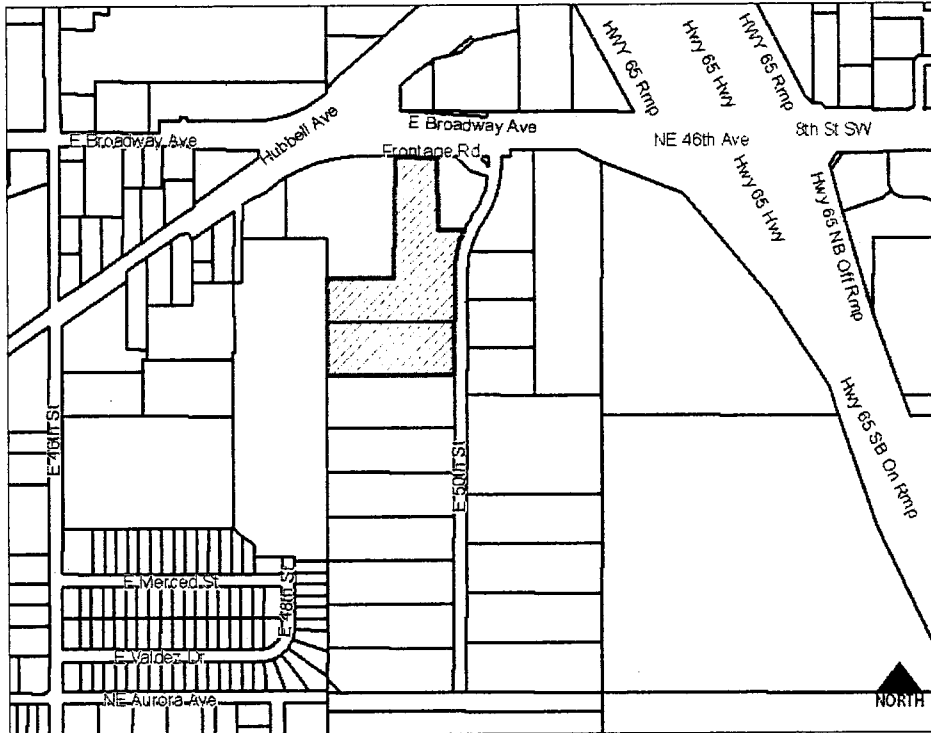


Michael F. Kelley
Assistant City Attorney

Request from Broadway Storage, LC. (owner) represented by Brad Vander Linden (officer) to rezone property located at 4448 and 4518 East 50 th Street.			File #	
			ZON2010-00017	
Description of Action	Rezone property located at 4448 and 4518 East 50 th Street from "A-1" Agricultural District to Limited "M-1" Light Industrial District to allow expansion of the existing mini-warehouse site onto property to the south.			
2020 Community Character Plan	Low-Density Residential and Commercial: Auto-Oriented Small-Scale Strip Development			
Horizon 2025 Transportation Plan	No Planned Improvements			
Current Zoning District	"A-1" Agricultural District			
Proposed Zoning District	Limited "M-1" Light Industrial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No X

Broadway Storage LC - 4448 & 4518 E 50th Street

ZON2010-00017



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:	Broadway Storage, L.C.
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	Lots 2, 3 & 4, Broadway Business Park Plat 2, AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN POLK COUNTY, IOWA.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Broadway Storage, L.C., as titleholder, is the sole owner of the Property in the vicinity of 4448 and 4518 East 50th Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the A-1 Agricultural District to Limited M-1 Light Industrial District classification, I agree and accept on behalf of the owner 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. The following uses of structures and land shall be prohibited upon the Property:

- a. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted;
- b. Farms, except growing crops on any land that has not been improved;
- c. Asphalt or concrete mixing or production facilities;
- d. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances;
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- l. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility;
 - m. Jail, prison, or any other correctional facility of any kind;
 - n. Any public or private nuisance or illegal activity;
 - o. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks;
 - p. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is “unreasonable” shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
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- B. The following standards shall apply to any building hereafter constructed for mini-warehouse use:
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- G. All overhead doors and loading docks on any principal or accessory building shall not face East 50th Street or East Broadway Avenue, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.

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 M-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.

Broadway Storage, L.C.,

By: *Eric Vanderlinden*
 Eric Vanderlinden
 Managing Member

State of Iowa)
) ss:
 County of Polk)



This instrument was executed and acknowledged before me on 4-16-2010, 2010, by **Eric Vanderlinden**, a Managing Member, who is personally known to me or who has been authorized by the governing board and charter documents to execute this document on behalf of Broadway Storage, L.C.

Beth Luse
 Notary Public in the State of Iowa
 My commission expires: 1-1-11