

★ **Roll Call Number**

Agenda Item Number

64A

Date July 9, 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 4100 E. 16th Street from the "M-1" Light Industrial District to a Limited "M-2" Heavy Industrial 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

64A

Request from Glen Mikel to rezone property located at 4100 East 16 th Street. Subject property is owned by Terrance Judge.			File # ZON2007-00067	
Description of Action	Rezone property from "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow use as a vehicle towing and storage yard.			
2020 Community Character Plan	General Industrial			
Horizon 2025 Transportation Plan	No Planned Improvements			
Current Zoning District	"M-1" Light Industrial District			
Proposed Zoning District	"M-2" Heavy Industrial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	0	4	0	<20%
Plan and Zoning Commission Action	Approval	10-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Glen Mikel (G&S Services, Inc.) - 4100 E 16th Street

ZON2007-00067



64A

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 4100 E. 16th Street from the "M-1" Light Industrial District to a Limited "M-2" Heavy 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 4100 E. 16th Street, more fully described as follows, from the "M-1" Light Industrial District to a Limited "M-2" Heavy Industrial District classification:

The East 452.0 feet (except the East 20.0 feet for street), of the North 1/2 of the South 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 24, Township 79 North, Range 24 West of the 5th P.M., 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:

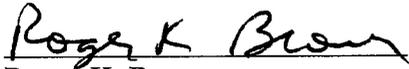
The following uses of structures and land shall be prohibited upon the Property:

- a. Abattoirs, slaughter houses and stockyards;
- b. Cement, lime, gypsum, and plaster of Paris manufacture;
- c. Explosive storage;
- d. Garbage, offal or dead animal reduction or dumping;
- e. Junk yard and salvage yard, however, this shall not prohibit the use of the property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property;
- f. Sand and gravel pits; and
- g. Solid waste transfer station.

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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64A

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: Terrance W. Judge and J Master, L.L.C.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

The East 452.0 feet (except the East 20.0 feet for street), of the North 1/2 of the South 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 24, Township 79 North, Range 24 West of the 5th P.M., 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, hereby state, warrant and agree as follows:

1. That Terrance W. Judge is the titleholder and contract seller, and that J Master, LLC, is the contract purchaser of the Property in the vicinity of 4100 E. 16th Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "M-1" Light Industrial District to a Limited "M-2" Heavy Industrial 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:

The following uses of structures and land shall be prohibited upon the Property:

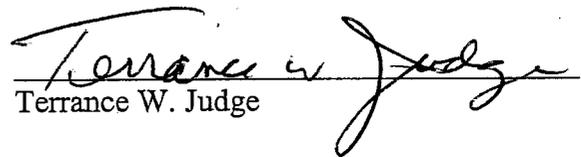
- a. Abattoirs, slaughter houses and stockyards;
- b. Cement, lime, gypsum, and plaster of Paris manufacture;
- c. Explosive storage;
- d. Garbage, offal or dead animal reduction or dumping;
- e. Junk yard and salvage yard, however, this shall not prohibit the use of the

- property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property;
- f. Sand and gravel pits; and
- g. Solid waste transfer station.

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-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.


 Terrance W. Judge

STATE OF IOWA)
) ss:
 COUNTY OF POLK)

BE IT REMEMBERED that on this 25th day of June, 2007, before me, the undersigned a Notary Public in and for Polk County, Iowa, personally appeared **Terrance W. Judge**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.




 Notary Public
 My commission expires: 4/2/10

J Master, LLC,
an Iowa limited liability company

By: *Glen H. Mikel*
Glen H. Mikel, Managing Member

State of Iowa)
) ss:
County of Polk)

On this 25th day of June, 2007, before me, a notary public, personally appeared **Glen H. Mikel**, to me personally known, who being by me duly sworn did say that he is the Managing Member of **J Master, LLC**, an Iowa limited liability company, and that the foregoing instrument was signed on behalf of said company by authority of its members, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said company, by it voluntarily executed.

Mary K. Miller
Notary Public in the State of Iowa
My commission expires: 4/2/10

