

★ Roll Call Number

Agenda Item Number

65A

Date August 20, 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 1507 Hartford Avenue 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.

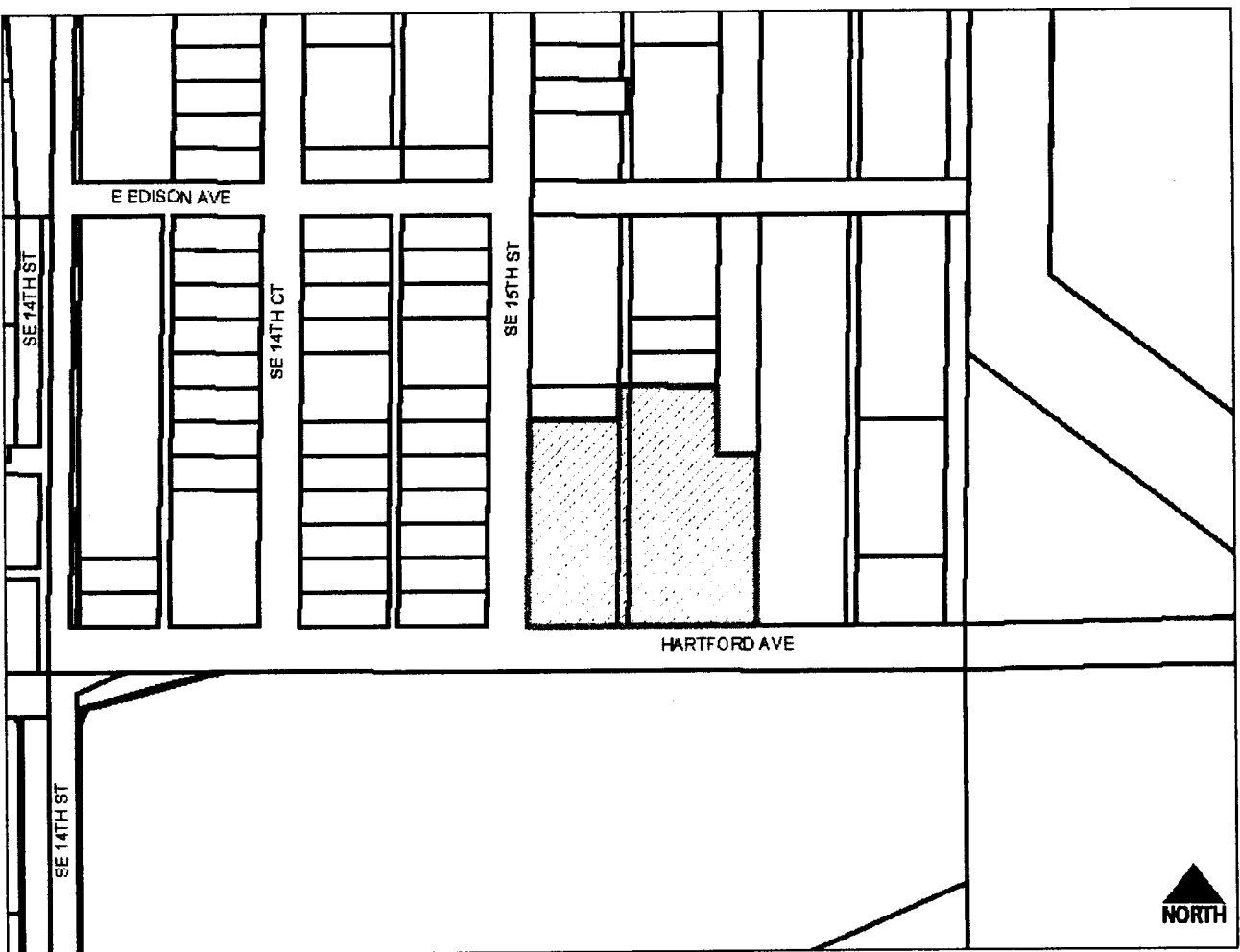
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

65A

Request from Mark Scigliano (purchaser) to rezone property located at 1507 Hartford Avenue. The subject property is owned by L&H Investment, L.L.C.		File #			
		ZON2007-00091			
Description of Action	Rezone property from "M-1" Light Industrial District to Limited "M-2" Heavy Industrial District to allow for a Conditional Use to allow storage of inoperable vehicles.				
2020 Community Character Plan	General Industrial.				
Horizon 2025 Transportation Plan	Hartford Avenue from SE 14 th Street to SE 22 nd Street to be paved/widened from 2 gravel lanes to 4 lanes divided.				
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	2	0	<20%	
Plan and Zoning Commission Action	Approval	6-2	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

L & H Investment, LLC. (Mark Scigliano) - 1507 Hartford Avenue ZON2007-00091



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 1507 Hartford Avenue 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 1507 Hartford Avenue, more fully described as follows, from the "M-1" Light Industrial District to a Limited "M-2" Heavy Industrial District classification:

Lots 1 through 6 and Lots 18 through 24, in Block 3, Riverside Park, an Official Plat; and the vacated North/South alley right-of-way lying West of and adjoining said Lots 18 through 24; and the vacated SE 15th Court right-of-way lying East of and adjoining said Lots 20 through 24, 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 (exclusive of the City of Des Moines) and are binding upon the owners and their successors, heirs, and assigns as follows:

- A. Prior to the issuance of a permanent Certificate of Occupancy for any new commercial or industrial use of the Property, the intervening vacated alley shall be acquired and assembled into the site.
- B. Use of the Property for storage of inoperable vehicles outside of a building shall not be commenced until a Conditional Use Permit for such use has been obtained from the Zoning Board of Adjustment.
- C. All necessary permits shall be obtained from the Permit and Development Center for the conversion of any existing structures and the construction of any new structures on the

property.

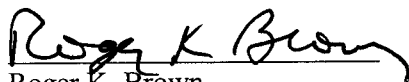
- D. The site plan for any commercial or industrial use of the Property shall conform to the landscaping standards applicable within the "C-2" District.
- E. The following uses of land and structures shall be prohibited upon the Property:
 - 1) Abattoirs, slaughter houses and stockyards;
 - 2) Cement, lime, gypsum, or plaster of Paris manufacture;
 - 3) Explosive storage;
 - 4) Garbage, offal or dead animal reduction or dumping;
 - 5) 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;
 - 6) Sand or gravel pits; and
 - 7) Solid waste transfer station.
- F. A fluid leakage mitigation plan be submitted by the applicant and reviewed and approved by staff as part of the site plan approval process for any use of the Property as a towing and storage yard for motor vehicles and trailers.

Sec. 3. The City of Des Moines, as owner of the vacated North/South alley included in the Property described above, hereby consents to the imposition of the foregoing conditions on such alley, to be binding upon the City, its successors and assigns.

Sec. 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 5. 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

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: Winkeriano, LLC, and L & H Investments, L.L.C.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

Lots 1 through 6 and Lots 18 through 24, in Block 3, Riverside Park, an Official Plat; and the vacated SE 15th Court right-of-way lying East of and adjoining said Lots 20 through 24, 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 L & H Investments, L.L.C., as titleholder, and Winkeriano, LLC, as contract purchaser, are the sole owners of the Property in the vicinity of 1507 Hartford Avenue, 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:

- A. Prior to the issuance of a permanent Certificate of Occupancy for any new commercial or industrial use of the Property, the intervening vacated alley shall be acquired and assembled into the site.
- B. Use of the Property for storage of inoperable vehicles outside of a building shall not be commenced until a Conditional Use Permit for such use has been obtained from the Zoning Board of Adjustment.

- C. All necessary permits shall be obtained from the Permit and Development Center for the conversion of any existing structures and the construction of any new structures on the property.
- D. The site plan for any commercial or industrial use of the Property shall conform to the landscaping standards applicable within the "C-2" District.
- E. The following uses of land and structures shall be prohibited upon the Property:
 - 1) Abattoirs, slaughter houses and stockyards;
 - 2) Cement, lime, gypsum, or plaster of Paris manufacture;
 - 3) Explosive storage;
 - 4) Garbage, offal or dead animal reduction or dumping;
 - 5) 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;
 - 6) Sand or gravel pits; and
 - 7) Solid waste transfer station.
- F. A fluid leakage mitigation plan be submitted by the applicant and reviewed and approved by staff as part of the site plan approval process for any use of the Property as a towing and storage yard for motor vehicles and trailers.

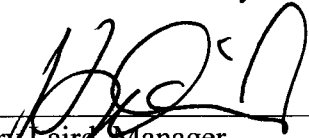
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

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.

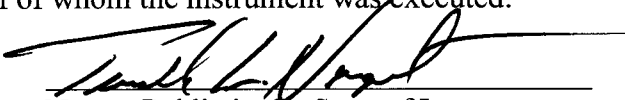
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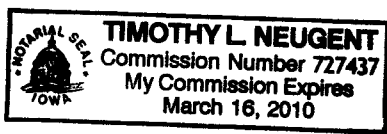
L & H Investments, L.L.C.,
an Iowa limited liability company

By: 
Harry Laird, Manager
Titleholder and Contract Seller

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on August 14th, 2007, by Harry Laird, as Manager of L & H Investments, L.L.C., on behalf of whom the instrument was executed.


Notary Public in the State of Iowa
My commission expires: March 16, 2010

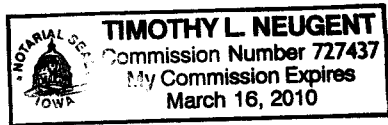


Winkeriano, LLC,
an Iowa limited liability company

By: Mark T Scigliano
Mark Scigliano
Contract Buyer

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on August 14th, 2007, by MARC
SCIGLIANO as AGENT of Winkeriano, LLC, on behalf
of whom the instrument was executed.



Timothy L. Neugent
Notary Public in the State of Iowa
My commission expires: March 16, 2010