

★ **Roll Call Number**

Agenda Item Number

520

Date October 8, 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 1455 - 2nd Place and 218 Clark Street from the "R1-60" One-Family Low-Density Residential District to a 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)

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

526

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 1455 - 2nd Place and 218 Clark Street from the "R1-60" One-Family Low-Density Residential District to a 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 1455 - 2nd Place and 218 Clark Street, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light Industrial District classification:

Lots 55 and 56, Marshall's Second Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein 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. Only the following uses of structures or land shall be permitted upon the Property: Wholesale warehousing in accordance with an approved site plan. Outdoor storage shall not be permitted upon the Property.
- B. Landscaping and buffering shall be provided upon the Property in accordance with the City's Landscaping Standards for the "C-2" District.
- C. Vehicular access to the Property shall be limited to access from the adjoining alley.
- D. Any building constructed or placed upon the Property shall be constructed and

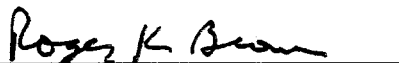
maintained in conformance with the following design standards:

- 1) At least 60% of the exterior facade facing 2nd Place and Clark Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
 - 2) Not more than 40% of the exterior facade facing 2nd Place and Clark Street shall be metal or synthetic stucco (such as EFIS or Dryvit).
 - 3) The required materials used for the exterior facades facing 2nd Place and Clark Street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing 2nd Place and Clark Street.
 - 4) No metal (such as standing seam metal), synthetic stucco material (such as EFIS or Dryvit) or other materials susceptibility to damage shall be used as an exterior material below four (4) feet above grade.
 - 5) All outdoor dumpsters shall be enclosed by a solid opaque screen.
- E. Prior to occupancy of any building upon the Property, the adjoining property fronting on 2nd Avenue shall be improved by:
- 1) The addition and installation of brick wainscoting along the east side of the existing building;
 - 2) The installation of landscaping and buffering in accordance with the City's Landscaping Standards for the "C-2" District; and,
 - 3) The installation of solid opaque screening around all outdoor dumpsters.

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:



Roger K. Brown

Assistant City Attorney

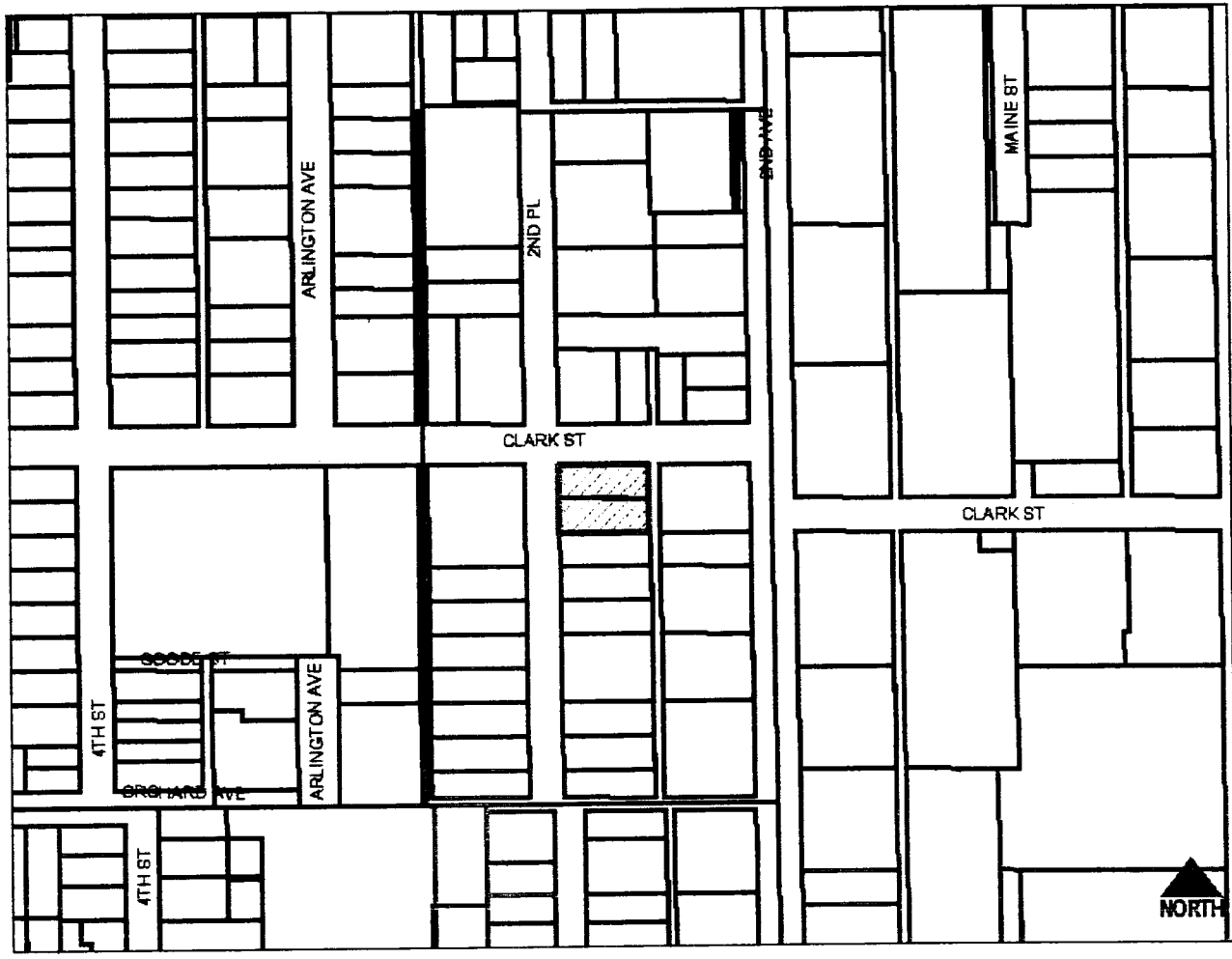
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|---|--|--|--------------|--|--------------|
| Request from Central City Liquors represented by Tom Duax (officer) to rezone property located at 1455 2 nd Place and 218 Clark Street. The subject property is owned by T.D. & M.D., L.L.C. | | | | File # ZON2007-00130 | |
| Description of Action | | Rezone property from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District to allow for construction of a 3,000-square foot commercial/industrial structure and associated parking. | | | |
| 2020 Community Character Plan | | Low-Density Residential. | | | |
| Horizon 2025 Transportation Plan | | No Planned Improvements. | | | |
| Current Zoning District | | "R1-60" One-Family Low-Density Residential District. | | | |
| Proposed Zoning District | | "M-1" Light Industrial District. | | | |
| Consent Card Responses | | In Favor | Not In Favor | Undetermined | % Opposition |
| Inside Area | | | | | |
| Outside Area | | 3 | 0 | 0 | <20% |
| Plan and Zoning Commission Action | | Approval | 13-0 | Required 6/7 Vote of the City Council | |
| | | Denial | | Yes | |
| | | | | No | X |

Central City Liquors - 218 Clark Street & 1455 2nd Place

ZON2007-00130



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: TD & MD, L.L.C.
Grantee's Name: City of Des Moines, Iowa
Legal Description:
Lots 55 and 56, Marshall's Second Addition, 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 hereby states, warrants and agrees as follows:

1. That TM & MD, L.L.C., an Iowa limited liability company, is the sole owner of the Property in the vicinity of 1455 - 2nd Place and 218 Clark Street, more specifically described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light 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. Only the following uses of structures or land shall be permitted upon the Property: Wholesale warehousing in accordance with an approved site plan. Outdoor storage shall not be permitted upon the Property.
 - B. Landscaping and buffering shall be provided upon the Property in accordance with the City's Landscaping Standards for the "C-2" District.
 - C. Vehicular access to the Property shall be limited to access from the adjoining alley.

- D. Any building constructed or placed upon the Property shall be constructed and maintained in conformance with the following design standards:
- 1) At least 60% of the exterior facade facing 2nd Place and Clark Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
 - 2) Not more than 40% of the exterior facade facing 2nd Place and Clark Street shall be metal or synthetic stucco (such as EFIS or Dryvit).
 - 3) The required materials used for the exterior facades facing 2nd Place and Clark Street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing 2nd Place and Clark Street.
 - 4) No metal (such as standing seam metal), synthetic stucco material (such as EFIS or Dryvit) or other materials susceptibility to damage shall be used as an exterior material below four (4) feet above grade.
 - 5) All outdoor dumpsters shall be enclosed by a solid opaque screen.
- E. Prior to occupancy of any building upon the Property, the adjoining property fronting on 2nd Avenue shall be improved by:
- 1) The addition and installation of brick wainscoting along the east side of the existing building;
 - 2) The installation of landscaping and buffering in accordance with the City's Landscaping Standards for the "C-2" District; and,
 - 3) The installation of solid opaque screening around all outdoor dumpsters.

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.

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TD & MD, L.L.C.,
an Iowa limited liability company

By: _____
Thomas P. Duax, President

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on _____, 2007, by **Thomas P. Duax**, as President of **TD & MD, L.L.C.**, an Iowa limited liability company, on behalf of whom the instrument was executed.

Notary Public in the State of Iowa
My commission expires: _____