

★ **Roll Call Number**

Agenda Item Number

42

Date..... November 20, 2006

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 219 College Avenue from the "R-3" Multiple Family Residential District to a Limited "M-1" Light Industrial District classification",

which was considered and voted upon for the first time under Roll Call No. 06-2128 of October 23, 2006, and considered and voted upon for the second time under Roll Call No. 06-2197 of November 6, 2006, again presented.

MOVED by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO. \_\_\_\_\_

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLASSIS				
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

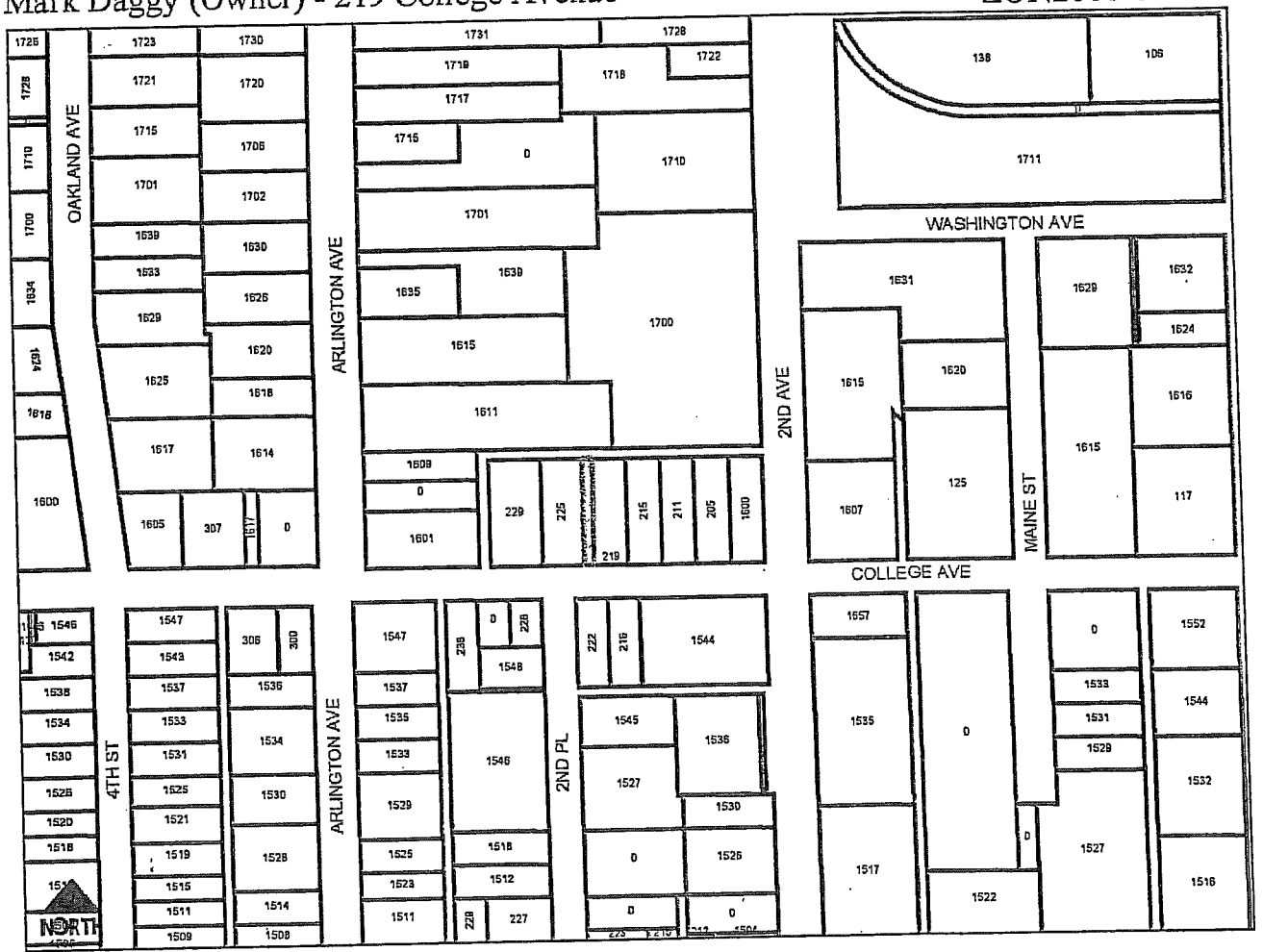
06-2128  
06-297 SPC

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Request from Mark Daggy (owner) to rezone property located at 219 College Avenue.			File # ZON2006-00083	
<b>Description of Action</b>	Rezone a 15' x 160' piece of land from "R-3" Multiple-Family Residential District to "M-1" Light Industrial District to allow for industrial development on a currently split-zoned parcel.			
<b>2020 Community Character Plan</b>	Low-Density Residential			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"R-3" Multiple-Family Residential District			
<b>Proposed Zoning District</b>	"M-1" Light Industrial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	2	2	0	<20%
<b>Plan and Zoning Commission Action</b>	Approval	13-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No X

Mark Daggy (Owner) - 219 College Avenue

ZON2006-00083



06-2/28  
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06-2/97

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Prepared by: Roger K. Brown, Assist City Atty, 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  
Title of Document: City of Des Moines, Ordinance No. \_\_\_\_\_  
Legal Description: See below on this page.

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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 219 College Avenue from the "R-3" Multiple Family 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 219 College Avenue, more fully described as follows, from the "R-3" Multiple Family Residential District to a Limited "M-1" Light Industrial District classification:

The East 15 feet of Lot 7, Oakdale, 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

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Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

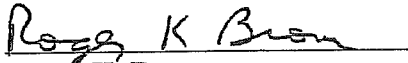
- A. Landscaping and buffering shall be provided in accordance with the City's Landscaping Standards for development in the "C-2" District upon any redevelopment of the Property for non-residential use.
- B. Any redevelopment of the Property for non-residential use shall comply with all applicable Site Plan requirements.
- C. All necessary permits for shall be obtained for any construction and a Certificate of Occupancy shall be obtained prior to occupancy of any building on the property for non-residential use.
- D. The following uses of structures and land shall be prohibited upon the Property:
  - (1) Adult entertainment business;
  - (2) Asphalt and concrete mixing and products manufacturing;
  - (3) Coalyards, cokeyards or woodyards;
  - (4) Off-premise advertising signs;
  - (5) Package goods stores for the sale of alcoholic beverages;
  - (6) Pawn shops, payroll and title loan institutions;
  - (7) Taverns and nightclubs; and,
  - (8) Vehicle display, hire, rental and sales, including used car sales lots.
- E. Any building upon the Property used for a commercial or industrial use shall comply with the following design standards:
  - i) At least 60% of the exterior facade facing College Avenue, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
  - ii) Not more than 40% of the exterior facade facing College Avenue shall be metal or synthetic stucco (such as EFIS or Dryvit).
  - iii) The required materials used for the exterior facades facing College Avenue 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 College Avenue.
  - iv) 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.

F. The foregoing conditions shall apply to the Property and to any adjoining land developed with the Property for a common use.

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 Rezoning Ordinance Acceptance, 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: Rezoning Ordinance  
Grantor's Name: MacDonald Letter Service Co.  
Grantee's Name: City of Des Moines, Iowa  
Legal Description:

The East 15 feet of Lot 7, Oakdale, 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").

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### REZONING ORDINANCE ACCEPTANCE

The undersigned MacDonald Letter Service Co., hereby states, warrants and agrees as follows:

(1) That MacDonald Letter Service Co., is the sole owner of the Property in the vicinity of 219 College Avenue, more specifically described above.

(2) That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R-3" Multiple Family 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. Landscaping and buffering shall be provided in accordance with the City's Landscaping Standards for development in the "C-2" District upon any redevelopment of the Property for non-residential use.

- B. Any redevelopment of the Property for non-residential use shall comply with all applicable Site Plan requirements.
- C. All necessary permits for shall be obtained for any construction and a Certificate of Occupancy shall be obtained prior to occupancy of any building on the property for non-residential use.
- D. The following uses of structures and land shall be prohibited upon the Property:
  - (1) Adult entertainment business;
  - (2) Asphalt and concrete mixing and products manufacturing;
  - (3) Coalyards, cokeyards or woodyards;
  - (4) Off-premise advertising signs;
  - (5) Package goods stores for the sale of alcoholic beverages;
  - (6) Pawn shops, payroll and title loan institutions;
  - (7) Taverns and nightclubs; and,
  - (8) Vehicle display, hire, rental and sales, including used car sales lots.
- E. Any building upon the Property used for a commercial or industrial use shall comply with the following design standards:
  - i) At least 60% of the exterior facade facing College Avenue, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
  - ii) Not more than 40% of the exterior facade facing College Avenue shall be metal or synthetic stucco (such as EFIS or Dryvit).
  - iii) The required materials used for the exterior facades facing College Avenue 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 College Avenue.
  - iv) 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.
- F. The foregoing conditions shall apply to the Property and to any adjoining land developed with the Property for a common use.

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

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*Rezoning Ordinance Acceptance*  
page 3

(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.

**MacDonald Letter Service Co.,**  
a Iowa corporation

By: \_\_\_\_\_  
Mark Daggy, CEO

STATE OF IOWA    )  
                          ) ss:  
COUNTY OF POLK )

BE IT REMEMBERED, that on this \_\_\_\_ day of October, 2006, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared **Mark Daggy**, to me personally known, who, being by me duly sworn did say that he is the CEO of **MacDonald Letter Service Co.**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that he acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, and by it and by him voluntarily executed.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_