

★ Roll Call Number

Agenda Item Number

40A

Date: September 27, 2010

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 201 East Locust Street and 306 East 3<sup>rd</sup> Street from C-3 Central Business District Commercial to Limited C-3 district classification",

which was considered and voted upon for the first time under Roll Call No. 10- 1404 of August 23, 2010, and considered and voted upon for the second time under Roll Call No. 10- 1488 of September 13, 2010, 2010, again presented.

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

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

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

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10-11-01  
2/14/88

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 201 East Locust Street and 306 East 3<sup>rd</sup> Street from C-3 Central Business District Commercial to Limited C-3 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 201 East Locust Street and 306 East 3<sup>rd</sup> Street, more fully described as follows, from the C-3 Central Business District Commercial to Limited C-3 district classification:

(201 East Locust Street)  
VAC E WALNUT ST BEG SW COR LT 1 THN E TO SE COR LT 8 S 25.2F W TO POB & VAC E/W ALLEY LYG S & ADJ LT 3 & W 44F VAC E/W ALLEY LYG S & ADJ LT 6 & ALL VAC INTERV N/S ALLEY & LOTS 1 THRU 6 & W 44F LTS 7 & 8 & -EX N 23.1F- E 88F LOT 8 BLK G SCOTT & DEANS ADD

(306 East 3<sup>rd</sup> Street)  
E 88F LT 7 & N 23.1F E 88F LT 8 BLK G SCOTT & DEANS ADD

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:

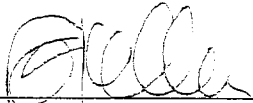
- A. Prohibit the use of the properties for adult entertainment businesses, mobile home parks, automobile washing (open bays and unattended), pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, monument sales yards, sheet metal shops and sign painting shops.
- B. Automotive Repair and Vehicle Display Lots subject to Vehicle Display Lot Site Plan Regulation continue to be permitted uses.

- C. C-3B design guidelines, as set out in Section 82-214.7, shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District and with any site plan regulations applicable to the specific use. If a building is expanded by less than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District, then the C-3B guidelines shall apply only to the expansion of the building as set out in Section 82-214.7 and with any site plan regulations applicable to the specific 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. 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:



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Michael F. Kelley  
Assistant City Attorney

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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: 201 East Locust, L.L.C.  
Grantee's Name: City of Des Moines, Iowa  
Legal Description:

(201 East Locust Street)  
VAC E WALNUT ST BEG SW COR LT 1 THN E TO SE COR LT 8 S 25.2F W TO POB &  
VAC E/W ALLEY LYG S & ADJ LT 3 & W 44F VAC E/W ALLEY LYG S & ADJ LT 6 &  
ALL VAC INTERV N/S ALLEY & LOTS 1 THRU 6 & W 44F LTS 7 & 8 & -EX N 23.1F-  
E 88F LOT 8 BLK G SCOTT & DEANS ADD

(306 East 3<sup>rd</sup> Street)  
E 88F LT 7 & N 23.1F E 88F LT 8 BLK G SCOTT & DEANS ADD

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That 201 East Locust, L.L.C., as titleholder is the sole owner of the Property in the vicinity of 201 East Locust Street and 306 East 3<sup>rd</sup> Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Properties from the C-3 Central Business District Commercial District to Limited C-3 District classification, we 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 Properties:

- A. Prohibit the use of the properties for adult entertainment businesses, mobile home parks, automobile washing (open bays and unattended), pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, monument sales yards, sheet metal shops and sign painting shops.

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10-1488

- B. Automotive Repair and Vehicle Display Lots subject to Vehicle Display Lot Site Plan Regulation continue to be permitted uses.
- C. C-3B design guidelines, as set out in Section 82-214.7, shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District and with any site plan regulations applicable to the specific use. If a building is expanded by less than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District, then the C-3B guidelines shall apply only to the expansion of the building as set out in Section 82-214.7 and with any site plan regulations applicable to the specific use.

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 C-3, 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.

**201 East Locust, L.L.C.**

By: Troy Hansen  
Troy Hansen, Managing Member

State of Iowa            )  
                                  ) ss:  
County of Polk         )

This instrument was acknowledged before me on August 17, 2010, by Troy Hansen as the Manager Member of **201 East Locust, L.L.C.**, an Iowa limited liability company, on behalf of whom the instrument was executed.

Robert D. Curl  
Notary Public in the State of Iowa  
My commission expires: 5-15-13

