



Roll Call Number

Agenda Item Number

50A

Date September 26, 2011

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 1825 East Army Post Road from the C-2 General Retail and Highway Oriented Commercial 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)



Michael F. Kelley
Assistant City Attorney

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

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 1825 East Army Post Road from the C-2 General Retail and Highway Oriented Commercial 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 1825 East Army Post Raod, more fully described as follows, from the C-2 General Retail and Highway Oriented Commercial District to a Limited M-1 Light Industrial District classification:

West 1/2 Northwest ¼, and West 1/2 Southwest ¼, Northwest ¼, Northeast ¼, Section 35, Township 78 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.

Section 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:

(1) Permitted uses shall be limited to the following:

- a) Uses allowed in the C-2 District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
- b) Warehousing that is completely enclosed in a building or screened from view.

- (2) Outside display of general merchandise is permitted subject to the following requirements:
 - a) All display areas shall be identified on an approved Site Plan and generally limited to those areas identified on the submitted site sketch.
 - b) Any display area that adjoins a building shall include a minimum 5-foot wide open pedestrian access way from the parking lot to the main door of the building.
 - c) Merchandise displayed directly adjoining a building shall be stacked no greater than 8 feet in height.
 - d) Merchandise displayed in areas that do not adjoin a building shall be limited in size and scope by the material types identified on an approved Site Plan.
- (3) All outside storage areas and all display areas for automobiles, trailers, motorcycles, boats and/or farm implements shall comply with the following requirements:
 - a) Any such area shall be located outside of the front yard area.
 - b) Any such area shall be screened from view to the satisfaction of the Community Development Director. Slats in chain link fencing shall not be considered an appropriate screening material.
 - c) No items shall be stacked higher than the perimeter screening.
 - d) Any such area shall be designed to allow no part of any stored or displayed product to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer.
 - e) All display areas, driveways and areas used for temporary storage shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- (4) Any development of the property shall comply with the City's Landscaping Standards applicable to the C-2 District.
- (5) Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
- (6) Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

50A

Section 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:



Michael F. Kelley
Assistant City Attorney

SOA

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:	Exodus Group Investments, LLC
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	West 1/2 Northwest 1/4, and West 1/2 Southwest 1/4, Northwest 1/4, Northeast 1/4, Section 35, Township 78 North, Range 24 West of the 5 th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Exodus Group Investments, LLC, an Iowa limited liability company, is the sole owner of the Property in the vicinity of 1825 East Army Post Road, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the C-2 General Retail and Highway Oriented Commercial District to a Limited M-1 Light Industrial District classification, I 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 Property:

(1) Permitted uses shall be limited to the following:

- a) Uses allowed in the C-2 District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
- b) Warehousing that is completely enclosed in a building or screened from view.

- (2) Outside display of general merchandise is permitted subject to the following requirements:
 - a) All display areas shall be identified on an approved Site Plan and generally limited to those areas identified on the submitted site sketch.
 - b) Any display area that adjoins a building shall include a minimum 5-foot wide open pedestrian access way from the parking lot to the main door of the building.
 - c) Merchandise displayed directly adjoining a building shall be stacked no greater than 8 feet in height.
 - d) Merchandise displayed in areas that do not adjoin a building shall be limited in size and scope by the material types identified on an approved Site Plan.
- (3) All outside storage areas and all display areas for automobiles, trailers, motorcycles, boats and/or farm implements shall comply with the following requirements:
 - a) Any such area shall be located outside of the front yard area.
 - b) Any such area shall be screened from view to the satisfaction of the Community Development Director. Slats in chain link fencing shall not be considered an appropriate screening material.
 - c) No items shall be stacked higher than the perimeter screening.
 - d) Any such area shall be designed to allow no part of any stored or displayed product to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer.
 - e) All display areas, driveways and areas used for temporary storage shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
- (4) Any development of the property shall comply with the City's Landscaping Standards applicable to the C-2 District.
- (5) Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
- (6) Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

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.

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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.

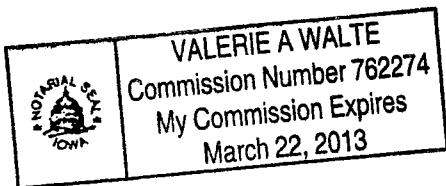
The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Exodus Group Investments, LLC
an Iowa limited liability company

By: Jeret Koenig
Jeret Koenig, Member

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on September 16, 2011, by **Jeret Koenig** who is a Member of **Exodus Group Investments, LLC**, known to me and has been authorized by the Managing Members to execute this document on behalf of **Exodus Groups Investment, LLC**.



Valerie Walte
Notary Public in the State of Iowa
My commission expires: 3/22/13