



**Roll Call Number**

**Agenda Item Number**

48A

Date November 7, 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 at 1800 Southeast 14<sup>th</sup> Street from C-2 General Retail and Highway Oriented Commercial District with a VDL Vehicle Display Lot Overlay to a Limited C-2 District classification and to remove the VDL Overlay",

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				
<b>TOTAL</b>				

**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 at 1800 Southeast 14<sup>th</sup> Street from C-2 General Retail and Highway Oriented Commercial District with a VDL Vehicle Display Lot Overlay to a Limited C-2 District classification and to remove the VDL Overlay.

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 located at 1800 Southeast 14<sup>th</sup> Street from C-2 General Retail and Highway Oriented Commercial District with a VDL Vehicle Display Lot Overlay to a Limited C-2 District classification and to remove the VDL Overlay. The property is more fully described as follows:

Beginning 50 feet West of the Southeast corner, thence West 140 feet, thence North 199.2 feet, thence East 130.3 feet, thence Southeast 200.02 feet to Point of Beginning, Lot 1, Official Plat of the Southeast ¼, Section 10, Township 78 North, Range 24 West of the Fifth 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. Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
2. Any future use of the site for a vehicle display lot shall be in accordance with a Site Plan under the design guidelines for vehicle display lots as approved by the Plan & Zoning Commission and shall adhere to all landscaping and setback requirements. This Site Plan shall include both the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street and the expansion area at 1800 Southeast 14<sup>th</sup> Street.

3. The parcels currently known as 1800 Southeast 14<sup>th</sup> Street and 1902 Southeast 14<sup>th</sup> Street shall be combined by the Polk County Assessor to form one tax parcel.
4. The vehicle display lot, including the existing lot and any expansion, shall be limited to one (1) freestanding sign along the Southeast 14<sup>th</sup> Street frontage.
5. The existing freestanding sign at 1800 Southeast 14<sup>th</sup> Street shall be removed immediately.
6. The existing canopy structure at 1902 Southeast 14<sup>th</sup> Street shall be removed immediately.
7. Only one drive approach shall be permitted along Southeast 14<sup>th</sup> Street and shall align with the median opening in Southeast 14<sup>th</sup> Street at East Edison Avenue. All abandoned drive approaches shall be removed and a full height curb shall be restored along Southeast 14<sup>th</sup> Street.
8. Any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.
9. Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

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

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

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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:	Mayorga & Mayorga Partners
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	Beginning 50 feet West of the Southeast corner, thence West 140 feet, thence North 199.2 feet, thence East 130.3 feet, thence Southeast 200.02 feet to Point of Beginning, Lot 1, Official Plat of the Southeast ¼, Section 10, Township 78 North, Range 24 West of the Fifth P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Mayorga & Mayorga Partners, an Iowa limited liability company, is the sole owner of the Property in the vicinity of 1800 S.E. 14<sup>th</sup> Street, 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 with a VDL Vehicle Display Lot Overlay to remove the Overlay and rezone to a Limited C-2 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 Property:

- (1) Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
- (2) Any future use of the site for a vehicle display lot shall be in accordance with a Site Plan under the design guidelines for vehicle display lots as approved by the Plan & Zoning Commission and shall adhere to all landscaping and setback

requirements. This Site Plan shall include both the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street and the expansion area at 1800 Southeast 14<sup>th</sup> Street.

- (3) The parcels currently known as 1800 Southeast 14<sup>th</sup> Street and 1902 Southeast 14<sup>th</sup> Street shall be combined by the Polk County Assessor to form one tax parcel.
- (4) The vehicle display lot, including the existing lot and any expansion, shall be limited to one (1) freestanding sign along the Southeast 14<sup>th</sup> Street frontage.
- (5) The existing freestanding sign at 1800 Southeast 14<sup>th</sup> Street shall be removed immediately.
- (6) The existing canopy structure at 1902 Southeast 14<sup>th</sup> Street shall be removed immediately.
- (7) Only one drive approach shall be permitted along Southeast 14<sup>th</sup> Street and shall align with the median opening in Southeast 14<sup>th</sup> Street at East Edison Avenue. All abandoned drive approaches shall be removed and a full height curb shall be restored along Southeast 14<sup>th</sup> Street.
- (8) Any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.
- (9) Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

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-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.

48A

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.

**Mayorga & Mayorga Partners**

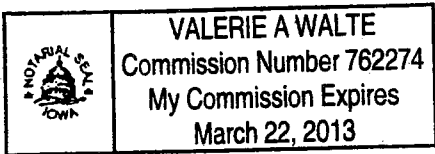
Titleholder

By: [Signature]  
Efrain Mayorga, Partner

By: Elemuel Mayorga  
Elemuel Mayorga, Partner

State of Iowa )  
  ) ss:  
County of Polk )

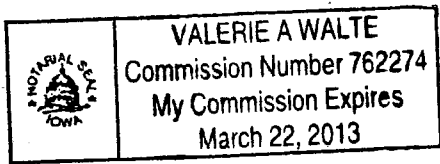
This instrument was acknowledged before me on October 26 ~~2011~~ <sup>2011</sup>, 2011, by Efrain Mayorga who is personally known to me or who has provided identification pursuant to and sufficient under Iowa law.



Valerie Walte  
Notary Public in the State of Iowa  
My commission expires: 3/22/2013

State of Iowa )  
  ) ss:  
County of Polk )

This instrument was acknowledged before me on October 26, 2011, by Elemuel Mayorga who is personally known to me or who has provided identification pursuant to and sufficient under Iowa law.



Valerie Walte  
Notary Public in the State of Iowa  
My commission expires: 3/22/2013