

Date March 12, 2012


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 931 Southeast 21st Street from the M-1 Light Industrial District to a Limited M-2 Heavy 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				

MOTION CARRIED

APPROVED

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.

 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 931 Southeast 21st Street from the M-1 Light Industrial District to a Limited M-2 Heavy 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 931 Southeast 21st Street, more fully described as follows, from the M-1 Light Industrial District to a Limited M-2 Heavy Industrial District classification:

Commencing as a point of reference at the East ¼ corner of Section 11, Township 78 North, Range 24 West of the 5th P.M., thence North along the East line of said Section 11 647.02 feet, thence West 851.32 feet perpendicular to said East line of Section 11 to the East line of Vacated Southeast 21st Street, thence South along said East line of Vacated Southeast 21st Street 720.76 feet to the Point of Beginning, thence Northwesterly 123.17 feet, thence North 466.45 feet along a line parallel to and 120 feet West of said East line of Vacated Southeast 21st Street, thence Southeasterly to said East line of Vacated Southeast 21st Street, thence South along said East line of Vacated Southeast 21st Street to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

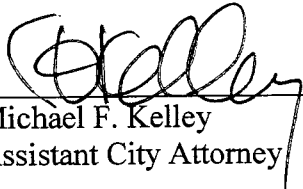
Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- a. Any separate use or development of the subject property for a use requiring the M-2 District zoning shall meet all requirements under Section 134-1122(5).
- b. Any use or development of the subject property as an expansion of an existing non-conforming use on adjoining property requiring the M-2 District zoning shall require that the property and the adjoining property devoted to the same use be brought into conformance with the M-2 District standards, including current Site Plan and landscaping requirements.

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

35A

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:	Des Moines Metropolitan Wastewater Reclamation Authority and Thomas Yaw
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	Commencing as a point of reference at the East ¼ corner of Section 11, Township 78 North, Range 24 West of the 5 th P.M., thence North along the East line of said Section 11 647.02 feet, thence West 851.32 feet perpendicular to said East line of Section 11 to the East line of Vacated Southeast 21 st Street, thence South along said East line of Vacated Southeast 21 st Street 720.76 feet to the Point of Beginning, thence Northwesterly 123.17 feet, thence North 466.45 feet along a line parallel to and 120 feet West of said East line of Vacated Southeast 21 st Street, thence Southeasterly to said East line of Vacated Southeast 21 st Street, thence South along said East line of Vacated Southeast 21 st Street to the Point of Beginning, 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 the Des Moines Metropolitan Wastewater Reclamation Authority as titleholder and Thomas Yaw as contract purchaser are the sole owners of the Property in the vicinity of 931 Southeast 21st Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the M-1 Light Industrial District to the Limited M-2 Heavy 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. Any separate use or development of the subject property for a use requiring the M-2 District zoning shall meet all requirements under Section 134-1122(5).

~~b. Any use or development of the subject property as an expansion of an existing non-conforming use on adjoining property requiring the M-2 District zoning shall require that the property and the adjoining property devoted to the same use be brought into conformance with the M-2 District standards, including current Site Plan and landscaping requirements.~~

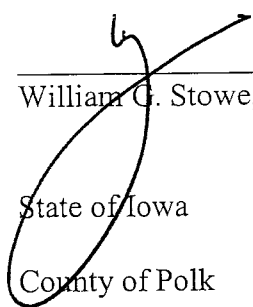


3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited M-2 District, 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.

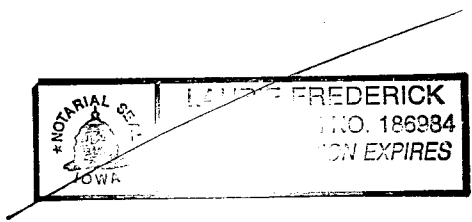
Titleholder
Des Moines Metropolitan
Wastewater Reclamation Authority



William G. Stowe, Director

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on March 3, 2012, by William G. Stowe, Director of the Des Moines Metropolitan Wastewater Reclamation Authority, who is personally known to me or who has provided identification pursuant to and sufficient under Iowa law.





Notary Public in the State of Iowa

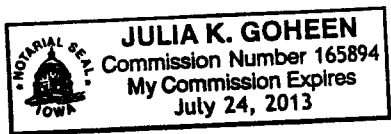


Contract Purchaser
Thomas Yaw

Thomas Yaw
Thomas Yaw

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on March 7, 2012,
by Thomas Yaw who is personally known to me or who has provided identification pursuant to
and sufficient under Iowa law.



Julia K. Goheen
Notary Public in the State of Iowa