

★ **Roll Call Number**

**Agenda Item Number**

35

Date December 3, 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 2419 Southeast 14<sup>th</sup> Street to remove the VDL Vehicle Display Lot Overlay District designation",

which was considered and voted upon under Roll Call No. 12- 1800 of November 19, 2012; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

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 2419 Southeast 14<sup>th</sup> Street to remove the VDL Vehicle Display Lot Overlay District designation.

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 2419 Southeast 14<sup>th</sup> Street, more fully described as follows, to remove the VDL Vehicle Display Lot Overlay District designation:

(Except the West 10 feet) Lots 8 & 9, Levitt Place, an Official Plat, 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. Provision of 22-foot minimum paving setbacks along the Southeast 14<sup>th</sup> Street and East Lacona Avenue frontages, and 17-foot minimum paving setbacks along the south and east property lines. No vehicle shall be displayed or parked to allow an overhang or encroachment into street side setbacks.
- b. Provision of landscaping materials in excess of and to exceed the minimum requirements of the Des Moines' Landscaping Standards to be determined by the Commission at Site Plan review.

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:

A handwritten signature in black ink, appearing to read 'M. Kelley', written over a horizontal line.

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: Randall R. Boyd and Strollo Development, LLC  
Grantee's Name: City of Des Moines, Iowa  
Legal Description: (Except the West 10 feet) Lots 8 & 9, Levitt Place, an Official Plat, 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 states, warrants and agrees as follows:

1. That Randall R. Boyd is the titleholder of the Property and Strollo Development, LLC is the purchaser of the Property in the vicinity of 2419 Southeast 14<sup>th</sup> Street, more specifically described above.
  
2. That in the event the City of Des Moines, Iowa, acts to remove the VDL Vehicle Display Lot Overlay District designation from the subject property, 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. Provision of 22-foot minimum paving setbacks along the Southeast 14<sup>th</sup> Street and East Lacona Avenue frontages, and 17-foot minimum paving setbacks along the south and east property lines. No vehicle shall be displayed or parked to allow an overhang or encroachment into street side setbacks.
  
  - b. Provision of landscaping materials in excess of and to exceed the minimum requirements of the Des Moines' Landscaping Standards to be determined by the Commission at Site Plan review.
  
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.

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.

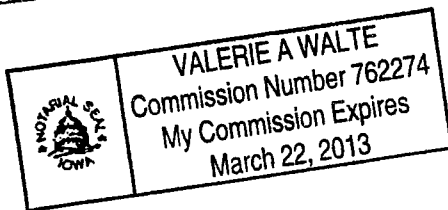
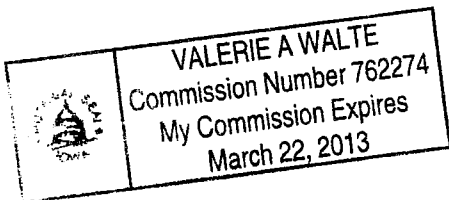
**Randall R. Boyd**

By: *Randall R. Boyd*  
Randall R. Boyd  
Titleholder

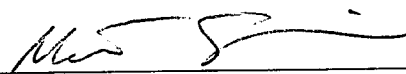
State of Iowa            )  
                                  ) ss:  
County of Polk         )

This instrument was executed acknowledged before me on November 19<sup>th</sup>, 2012, by Randall R. Boyd, 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

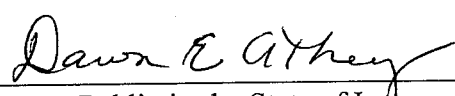


**Strollo Development, LLC**

By:   
Matthew Sheirer, Officer

State of Iowa            )  
                                  ) ss:  
County of Polk         )

This instrument was acknowledged before me on November 16, 2012, by Matthew Sheirer, as Member of Strollo Development, LLC, a New York limited liability company, on behalf of whom the instrument was executed.

  
Notary Public in the State of Iowa

