



Roll Call Number

Agenda Item Number

42A

Date May 5, 2014

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 200 SE 6th Street from the Limited "C-3B" Central Business Mixed-Use District to a Limited "C-3" Central Business District Commercial District classification",

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

(First of three required readings)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and 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 200 SE 6th Street from the Limited "C-3B" Central Business Mixed-Use District to a Limited "C-3" Central Business District Commercial 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 200 SE 6th Street, more fully described as follows, from a Limited "C-3B" Central Business Mixed-Use District to a Limited "C-3" Central Business District Commercial District classification:

The North 136.5 feet of the South 273 feet of Market Square in TOWN OF DE MOINE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein the "Property").

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:

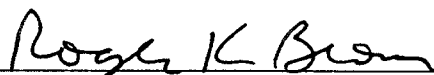
- (1) Only the following uses of land and structures shall be permitted upon the Property:
 - a. Display lot for rental vehicles and minor automotive repair.
 - b. All uses permitted in and as limited in the "C-3B" District, except the following uses which are prohibited:
 - i. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - ii. Auction businesses.
 - iii. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, including but not limited to delayed deposit service businesses.
 - iv. Lumberyards, retail and wholesale.

- v. Machine shops.
 - vi. Liquor stores, also known as freestanding package goods stores for the sale of alcoholic beverages.
 - vii. Pawn broker businesses.
 - viii. Printing, publishing houses and lithographing shops.
 - ix. Plumbing and heating shops.
 - x. Miniwarehouse uses.
 - xi. Freestanding taverns and night clubs.
 - xii. Warehousing.
- (2) Any current or future development shall be in accordance with a Site Plan that satisfies the design guidelines for the “C-3B” and Downtown Overlay Districts.
- (3) The site layout of any development other than a display lot for rental vehicles shall be in accordance with the Market District of East Village Urban Design Study.
- (4) The density of any future residential development shall be established in the site plan review process.
- (5) Any future residential development shall utilize measures to minimize impacts on the health, safety, and welfare of future residents from the nearby industrial uses. Such measures may include additional soundproofing, landscaping, and/or screening.
- (6) Any future development of a multiple-family residential use shall be in accordance with a Site Plan that satisfies the design guidelines for multiple-family residential use.
- (7) In the event the adjoining segment of vacated Market Street is improved and dedicated as a public street, the owner of the Property shall be responsible for installing the parking plantings and perimeter landscaping along that segment of Market Street in conformance with the site plan standards.

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:



Roger K. Brown, Assistant City Attorney

Prepared by: Roger K. Brown, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309
Phone: 515/283-4541
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: ST Investments, LLC (Owner)
Grantee's Name: City of Des Moines, Iowa
Legal Description: The North 136.5 feet of the South 273 feet of Market Square in TOWN OF DE MOINE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That ST Investments, LLC, an Iowa limited liability corporation, is the sole titleholder of the Property in the vicinity of 200 SE 6th Street, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the Limited "C-3B" Central Business Mixed-Use District to a Limited "C-3" Central Business District Commercial District, 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) Only the following uses of land and structures shall be permitted upon the Property:
 - a. Display lot for rental vehicles and minor automotive repair.
 - b. All uses permitted in and as limited in the "C-3B" District, except the following uses which are prohibited:
 - i. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - ii. Auction businesses.
 - iii. Financial institutions whereby a majority of loans are made based on

collateral of future payroll or vehicle titles, including but not limited to delayed deposit service businesses.

- iv. Lumberyards, retail and wholesale.
 - v. Machine shops.
 - vi. Liquor stores, also known as freestanding package goods stores for the sale of alcoholic beverages.
 - vii. Pawn broker businesses.
 - viii. Printing, publishing houses and lithographing shops.
 - ix. Plumbing and heating shops.
 - x. Miniwarehouse uses.
 - xi. Freestanding taverns and night clubs.
 - xii. Warehousing.
- (2) Any current or future development shall be in accordance with a Site Plan that satisfies the design guidelines for the "C-3B" and Downtown Overlay Districts.
- (3) The site layout of any development other than a display lot for rental vehicles shall be in accordance with the Market District of East Village Urban Design Study.
- (4) The density of any future residential development shall be established in the site plan review process.
- (5) Any future residential development shall utilize measures to minimize impacts on the health, safety, and welfare of future residents from the nearby industrial uses. Such measures may include additional soundproofing, landscaping, and/or screening.
- (6) Any future development of a multiple-family residential use shall be in accordance with a Site Plan that satisfies the design guidelines for multiple-family residential use.
- (7) In the event the adjoining segment of vacated Market Street is improved and dedicated as a public street, the owner of the Property shall be responsible for installing the parking plantings and perimeter landscaping along that segment of Market Street in conformance with the site plan standards.

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

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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.

ST INVESTMENTS, LLC
an Iowa limited liability company

By: Tom Howard
Tom Howard, Manager

State of Iowa)
) ss:
County of Polk)

On this 25th day of April, 2014, before me, a notary public, personally appeared **Tom Howard**, to me personally known, who being by me duly sworn did say that he is a Manager of **ST Investments, LLC**, an Iowa limited liability company; that ST Investments, LLC, is a manager managed company; and, that he signed the foregoing instrument on behalf of said company by authority of its managers, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said company, by it and by him voluntarily executed.

Douglas L. Smith
Notary Public in the State of Iowa

