

Date March 23, 2015

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 3917 Mahaska Avenue from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification",

presented.

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

FORM APPROVED:

(First of three required readings)

*Glenna K. Frank*

Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
 Phone: 515/283-4130  
 Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309  
 Title of Document: City of Des Moines, Ordinance No. \_\_\_\_\_  
 Grantor/Grantee: City of Des Moines, Iowa  
 Legal Description: See page 1, below.

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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 3917 Mahaska Avenue from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented 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 3917 Mahaska Avenue, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification:

Lots 101, 102, and 103 in BROADACRE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

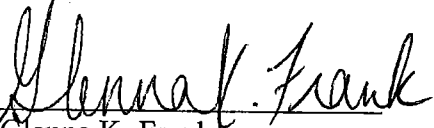
Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors,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

1. Only the uses of structures or land listed below shall be permitted upon the Property:
  - a. Any use allowed in the "R1-60" Commercial Residential District.
  - b. Mini-warehouse self-storage complex.
2. A development of the Property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  - a. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
  - b. The remaining sides of any building shall be in earth-tone colors.
  - c. No storage units shall have doors facing towards Mahaska Avenue.
  - d. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
  - e. No storage units within the easternmost building on the site shall have doors facing toward the east.
  - f. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
  - g. There shall be no signs other than internal directional signs on the Property.
  - h. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the Property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - i. A minimum 25-foot wide building setback shall be maintained along the eastern boundary of the Property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - j. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
  - k. No surface water shall be released onto any adjoining residential property.
  - l. Release the easement on Robert Anderson's property at 1232 E. 40th Street.
  - m. No exterior lighting shall be placed on building faces that do not directly abut a drive.

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

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of the Acceptance of Rezoning Ordinance, this ordinance, vicinity map and proof of publication of this ordinance to be properly filed in the office of the County Recorder of the county in which the subject property is located.

FORM APPROVED:

  
Glenna K. Frank  
Assistant City Attorney

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Phone: 515/283-4530  
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: Arnold E. DeWitt and Grace E. DeWitt, (Owners)  
Grantee's Name: City of Des Moines, Iowa  
Legal Description: Lots 101, 102, and 103 in BROADACRE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.  
(Herein "Property")

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Arnold E. DeWitt and Grace E. DeWitt are the sole titleholders of the Property locally known as 3917 Mahaska Avenue and Polk County District/Parcel No. 060/00668-000-000 and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District, we, as owners, agree to and accept to the imposition of the following conditions to run with the land and be binding upon all the owners and successors, heirs and assigns as part of the ordinance so rezoning the Property:

1. Only the uses of structures or land listed below shall be permitted upon the Property:
  - a. Any use allowed in the "R1-60" Commercial Residential District.
  - b. Mini-warehouse self-storage complex.
2. A development of the Property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  - a. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.

- b. The remaining sides of any building shall be in earth-tone colors.
- c. No storage units shall have doors facing towards Mahaska Avenue.
- d. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
- e. No storage units within the easternmost building on the site shall have doors facing toward the east.
- f. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
- g. There shall be no signs other than internal directional signs on the Property.
- h. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the Property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
- i. A minimum 25-foot wide building setback shall be maintained along the eastern boundary of the Property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
- j. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
- k. No surface water shall be released onto any adjoining residential property.
- l. Release the easement on Robert Anderson's property at 1232 E. 40th Street.
- m. No exterior lighting shall be placed on building faces that do not directly abut a drive.

3. A certified copy of the rezoning ordinance shall be attached hereto, and 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" General Retail and Highway-Oriented Commercial 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.

Arnold DeWitt

Arnold E. DeWitt  
Owner

State of Iowa     )  
                          ) ss:  
County of Polk    )

This instrument was acknowledged before me on March 2, 2015, by Arnold E. DeWitt.

Renae Lampkin  
Notary Public in the State of Iowa



44C

Grace E. DeWitt  
Grace E. DeWitt  
Owner

State of Iowa     )  
                          ) ss:  
County of Polk    )

This instrument was acknowledged before me on March 2, 2015, by Grace E. DeWitt.

Renae Lampkin  
Notary Public in the State of Iowa

