



Roll Call Number

Agenda Item Number

35

Date April 6, 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 1300 Army Post Road from the "C-2" General Retail and Highway-Oriented Commercial District and "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light Industrial District classification",

which was considered and voted upon under Roll Call No. 15- 0532 of March 23, 2015; 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				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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

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.

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 1300 Army Post Road from the "C-2" General Retail and Highway-Oriented Commercial District and "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light 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 1300 Army Post Road, more fully described as follows, from the "C-2" General Retail and Highway-Oriented Commercial District and "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light Industrial District classification:

Lots 7 through 10 (except the North 10 feet thereof), and Lot 11 (except the North 10 feet thereof and except the West 30 feet thereof), and the North 34 feet of Lot 33, and Lot 34 (except the South 125 feet of the West 15 feet thereof and except the South 50 feet of the East 35 feet thereof), all in David McKee Place, an Official Plat, all now included and forming a part of the City of Des Moines, Polk County, Iowa. Subject to all covenants, easements, and restrictions of record.

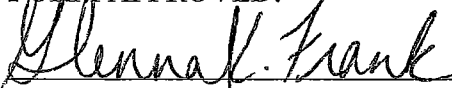
Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors,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

- (1) The only uses of the Property shall be those permitted in the "C-2" District and contractor's storage yard;
- (2) The following additional uses shall be prohibited:
 - a) Adult entertainment businesses;
 - b) Automobile establishments for display, hire, rental, and sales;
 - c) Delayed deposit services;
 - d) Liquor stores or other businesses selling packaged alcoholic liquor;
 - e) Off-premises advertising signs;
 - f) Pawn brokerages; and
 - g) Taverns and nightclubs;
- (3) Any contractor's storage yard shall be limited to the area directly south of the existing building on the Property;
- (4) Any reuse of the Property for a contractor's storage yard shall be in conformance with a Site Plan approved by the Permit and Development Center in accordance with requirements for contractor's storage yards, including adequate screen fencing of a height sufficient to fully screen any equipment or vehicles stored on the Property;
- (5) Conformance with landscape standards as applicable in "C-2" Districts is required prior to use of the Property for a contractor's storage yard;
- (6) Buildings on the Property shall be prohibited from having predominately metal exteriors; and
- (7) Any continued use of the existing truck loading dock shall provide a proper drive access from Southwest 13th Street, in accordance with Traffic Engineering requirements as part of an approved Site Plan.

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

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: Pyramid Investments, LLC (Owner)
 Grantee's Name: City of Des Moines, Iowa
 Legal Description: Lots 7 through 10 (except the North 10 feet thereof), and Lot 11 (except the North 10 feet thereof and except the West 30 feet thereof), and the North 34 feet of Lot 33, and Lot 34 (except the South 125 feet of the West 15 feet thereof and except the South 50 feet of the East 35 feet thereof), all in David McKee Place, an Official Plat, all now included and forming a part of the City of Des Moines, Polk County, Iowa. Subject to all covenants, easements, and restrictions of record.
 (Herein referred to as "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Pyramid Investments, LLC is the sole titleholder of the Property locally known as 1300 Army Post Road, Des Moines, Iowa, and legally 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 and "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light Industrial District, the owner agrees to and accepts the imposition of the following conditions to run with the land and be binding upon all the owner, and its successors, heirs and assigns, as part of the ordinance so rezoning the Property:

- (1) The only uses of the Property shall be those permitted in the "C-2" District and contractor's storage yard;
- (2) The following additional uses shall be prohibited:
 - a) Adult entertainment businesses;
 - b) Automobile establishments for display, hire, rental, and sales;
 - c) Delayed deposit services;
 - d) Liquor stores or other businesses selling packaged alcoholic liquor;
 - e) Off-premises advertising signs;
 - f) Pawn brokerages; and

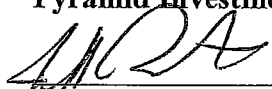
- g) Taverns and nightclubs;
- (3) Any contractor's storage yard shall be limited to the area directly south of the existing building on the Property;
- (4) Any reuse of the Property for a contractor's storage yard shall be in conformance with a Site Plan approved by the Permit and Development Center in accordance with requirements for contractor's storage yards, including adequate screen fencing of a height sufficient to fully screen any equipment or vehicles stored on the Property;
- (5) Conformance with landscape standards as applicable in "C-2" Districts is required prior to use of the Property for a contractor's storage yard;
- (6) Buildings on the Property shall be prohibited from having predominately metal exteriors; and
- (7) Any continued use of the existing truck loading dock shall provide a proper drive access from Southwest 13th Street, in accordance with Traffic Engineering requirements as part of an approved Site Plan.

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-1" Light Industrial 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.

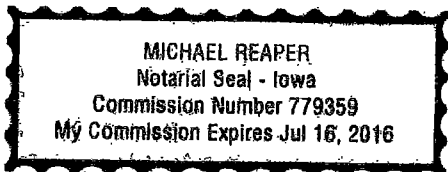
Pyramid Investments, LLC

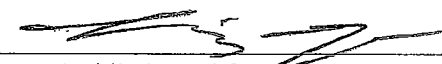


By: Jeff Rafashan
Its: President

State of Iowa)
) ss:
County of Polk)

On this 13th day of MARCH, 2015, before me, a notary public, personally appeared Jeff Rafashan (Name), to me personally known, who being by me duly sworn did say that he is President (Title) of Pyramid Investments, LLC, an Iowa limited liability company; that Pyramid Investments, LLC is a member (Member or Manager) -managed company; and, that he signed the foregoing instrument on behalf of said company by authority of its members/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.





Notary Public in and for the State of Iowa