



Roll Call Number

Agenda Item Number

53C

Date October 12, 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 2 Hartford Avenue from the Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District classification with the additional allowance of office and art studio/shop uses",

presented.

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

FORM APPROVED:

(First of three required readings)

Glenna K. Frank
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include 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

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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.

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 2 Hartford Avenue from the Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District classification with the additional allowance of office and art studio/shop uses.

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 2 Hartford Avenue, more fully described as follows, from the Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District classification with the additional allowance of office and art studio/shop uses:

Parcel "B" of the Plat of Survey filed October 14, 2003 and recorded in Book 10211, Page 852, being a part of Lots 22 and 23 of the Official Plat of the West ½ of Section 10, Township 78, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa.

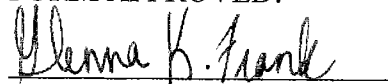
Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors,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

- (1) Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices;
- (2) The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking;
- (3) Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area; and
- (4) Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

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

Section 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: Lyman Enterprises, L.C. (Owner)

Grantee's Name: City of Des Moines, Iowa

Legal Description: Parcel "B" of the Plat of Survey filed October 14, 2003 and recorded in Book 10211, Page 852, being a part of Lots 22 and 23 of the Official Plat of the West ½ of Section 10, Township 78, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa.
(Herein "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Lyman Enterprises, L.C. is the sole titleholder of the Property locally known as 2 Hartford Avenue, 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 Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District classification with the additional allowance of office and art studio/shop uses, I agree and accept on behalf of the owner to the imposition of the following conditions to run with the land and be binding upon the owner and all successors, heirs and assigns as part of the ordinance so rezoning the Property:

- (1) Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices;

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- (2) The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking;
- (3) Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area; and
- (4) Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

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-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses, 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.

Lyman Enterprises, L.C.



By: Anthony Lyman, Officer

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on October 5, 2015, by Anthony Lyman as Officer of Lyman Enterprises, L.C., an Iowa limited liability company, on behalf of whom the instrument was executed.



Notary Public in the State of Iowa

JEANIE MARTIN
NOTARIAL SEAL - STATE OF IOWA
COMMISSION NUMBER 786018
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 MY COMMISSION EXPIRES 10-8-2016