

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 1818 High Street from the "C-2" General Retail and Highway-Oriented District to Limited "C-3A" Central Business District Support 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
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

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.

_____ City Clerk

54A

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 1818 High Street from the "C-2" General Retail and Highway-Oriented District to Limited "C-3A" Central Business District Support 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 1818 High Street, more fully described as follows, from the "C-2" General Retail and Highway-Oriented District to Limited "C-3A" Central Business District Support Commercial District classification:

The West 13 feet of Lot 5 and all of Lot 6 and the East 44 feet of Lot 7; all in Block "B" in J. C. SAVERY'S ADDITION, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; and

The vacated North 8 feet of the East 123 feet of the West 333 feet of Lot "C" in J. C. SAVERY'S ADDITION, 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:

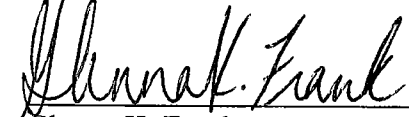
1. Any building constructed on the Property shall comply with the following design standards as approved by the Planning Administrator:
 - a) Buildings shall frame the street and maintain a minimal setback from the street.
 - b) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street façade. Actual percentage will be subject to approval of the Planning Administrator.
 - c) The front entrance should be oriented to the street.
 - d) Siding materials should consist of brick, stone, or other comparable durable material. Other material types may be used for accent purposes.
 - e) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
2. The following uses are prohibited on the Property:
 - a) Adult entertainment establishments.
 - b) Assembly and packaging of small components from the following previously prepared materials: metal, wood, plastic, paper or rubber.
 - c) Automobile body and fender repair shop, but not including wrecking or used parts yards or outside storage of automobile component parts.
 - d) Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales.
 - e) Billiard parlor/game room.
 - f) Communication Tower/Antenna (would therefore only be allowed by a Special Permit).
 - g) Gas Stations/convenience stores.
 - h) Lumberyards and building material sales yards.
 - i) Manufacturing, packaging and storage of dairy products.
 - j) Manufacture or treatment of products incidental to the conduct of a retail business carried out on the Property.
 - k) Printing and publishing houses.
 - l) Storage of nonflammable and non-explosive goods.
 - m) Taverns and night clubs.
 - n) Transportation passenger terminals, including bus stations, railroad passenger stations or other passenger terminals.
 - o) Truck rental establishments.
 - p) Off-premises advertising signs.

- q) Machine shops.
- r) Package goods liquor store.
- s) Sheet metal shops.
- t) Mobile home parks.
- u) Delayed deposit services/pawnbrokers.
- v) Tobacco/alternative nicotine stores.
- w) Vapor product stores.

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

54A

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: James S. Marcovis, David A. Marcovis, Menashe Khalastchi, Frank J. Marcovis (Owners)
Grantee's Name: City of Des Moines, Iowa
Legal Description: The West 13 feet of Lot 5 and all of Lot 6 and the East 44 feet of Lot 7; all in Block "B" in J. C. SAVERYS ADDITION, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; and

The vacated North 8 feet of the East 123 feet of the West 333 feet of Lot "C" in J. C. SAVERY'S ADDITION, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.
(Hereinafter "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That James S. Marcovis, David A. Marcovis, Menashe Khalastchi and Frank J. Marcovis are the sole titleholders of the Property locally known as 1818 High Street, 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 District to Limited "C-3A" Central Business District Support Commercial District, 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:

1. Any building constructed on the Property shall comply with the following design standards as approved by the Planning Administrator:
 - a) Buildings shall frame the street and maintain a minimal setback from the street.
 - b) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street façade. Actual percentage will be subject to approval of the Planning Administrator.

- c) The front entrance should be oriented to the street.
 - d) Siding materials should consist of brick, stone, or other comparable durable material. Other material types may be used for accent purposes.
 - e) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
2. The following uses are prohibited on the Property:
- a) Adult entertainment establishments.
 - b) Assembly and packaging of small components from the following previously prepared materials: metal, wood, plastic, paper or rubber.
 - c) Automobile body and fender repair shop, but not including wrecking or used parts yards or outside storage of automobile component parts.
 - d) Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales.
 - e) Billiard parlor/game room.
 - f) Communication Tower/Antenna (would therefore only be allowed by a Special Permit).
 - g) Gas Stations/convenience stores.
 - h) Lumberyards and building material sales yards.
 - i) Manufacturing, packaging and storage of dairy products.
 - j) Manufacture or treatment of products incidental to the conduct of a retail business carried out on the Property.
 - k) Printing and publishing houses.
 - l) Storage of nonflammable and non-explosive goods.
 - m) Taverns and night clubs.
 - n) Transportation passenger terminals, including bus stations, railroad passenger stations or other passenger terminals.
 - o) Truck rental establishments.
 - p) Off-premises advertising signs.
 - q) Machine shops.
 - r) Package goods liquor store.
 - s) Sheet metal shops.
 - t) Mobile home parks.
 - u) Delayed deposit services/pawnbrokers.
 - v) Tobacco/alternative nicotine stores.
 - w) Vapor product stores.

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-3A" Central Business District Support 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

Acceptance of Rezoning Ordinance
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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.

JAMES S. MARCOVIS

By: James S. Marcovis
James S. Marcovis

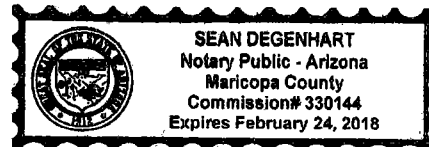
SPOUSE OF JAMES S. MARCOVIS

SHIRLEE MARCOVIS
By: Shirlee Marcovis

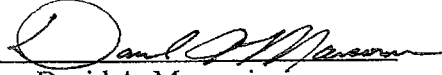
ARIZONA
State of ~~Iowa~~)
MARICOPA) ss:
County of ~~Polk~~)

This instrument was acknowledged before me on OCT. 2, 2015, by
James S. Marcovis and SHIRLEE MARCOVIS.

Sean Degenhart
Notary Public in and for the State of ~~Iowa~~ ARIZONA



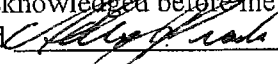
DAVID A. MARCOVIS

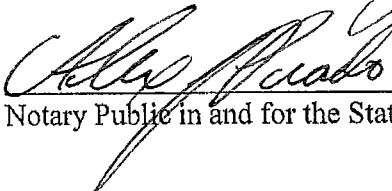
By: 
David A. Marcovis

SPOUSE OF DAVID A. MARCOVIS

By: _____

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on October 2, 2015, by
David A. Marcovis and .


Notary Public in and for the State of Iowa

ALEX PRADO
Notarial Seal, Iowa
Commission Number 775356
My Commission Expires October 22, 2015

MENASHE KHALASTCHI

By: Menashe Khalastchi
Menashe Khalastchi

SPOUSE OF MENASHE KHALASTCHI

Barbara Khalastchi
By: _____

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on October 2, 2015, by
Menashe Khalastchi and Barbara Khalastchi


[Signature]
Notary Public in and for the State of Iowa



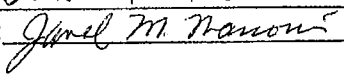
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FRANK J. MARCOVIS

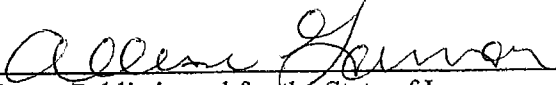
By: 
Frank J. Marcovis

SPOUSE OF FRANK J. MARCOVIS

Janel M. Marcovis
By: 

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on October 6, 2015, by
Frank J. Marcovis and Janel M Marcovis.


Notary Public in and for the State of Iowa

