



**Roll Call Number**

**Agenda Item Number**

78A

**Date** May 8, 2017

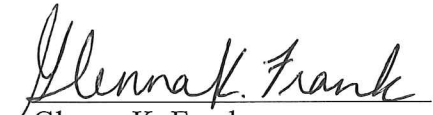
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 201 Southeast 6<sup>th</sup> Street from the "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use 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				
MOORE				
WESTERGAARD				
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

78A

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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 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 201 Southeast 6<sup>th</sup> Street from the "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use 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 201 Southeast 6<sup>th</sup> Street, more fully described as follows, from the "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use District classification:

TRACT #1 (DEED BOOK 6108 PAGE 953)

THAT PART OF LOT SEVEN (7) DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 7; THENCE NORTH 47.2 FEET; THENCE IN A WESTERLY DIRECTION TO A POINT ON THE WEST LINE OF SAID LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 7 TO THE POINT OF BEGINNING; ALL OF LOT SIX (6); AND THAT PART OF THE VACATED ALLEY AT A POINT ON THE VACATED ALLEY LYING BETWEEN LOTS 4, 5 6 AND 7, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF LOT 7, 21.47 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 7, THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF LOT 6; THENCE WESTERLY, AT RIGHT

ANGLES, A DISTANCE OF 8 FEET; THENCE IN A NORTHERLY DIRECTION, PARALLEL TO THE WEST LINE OF LOTS 6 AND 7, A DISTANCE OF 69.1 FEET; THENCE EASTERLY TO THE POINT OF BEGINNING, ALL IN BLOCK EIGHTEEN (18); AND THAT PART OF VACATED MARKET STREET DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 IN BLOCK 18; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 6 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 158 FEET; THENCE SOUTHERLY, AT RIGHT ANGLES, 14 FEET; THENCE EASTERLY, AT RIGHT ANGLES, 158 FEET, TO THE WEST LINE OF SE 7TH STREET; THENCE NORTHERLY, ALONG THE WEST LINE OF SE 7TH STREET, 14 FEET, TO THE POINT OF BEGINNING; ALL IN TOWN OF DE MOINE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

AND

TRACT #2 (DEED BOOK 5729 PAGE 737)

THE SOUTH 66.0 FEET OF VACATED EAST MARKET STREET, LYING NORTH AND ADJOINING LOT 10, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, AND THE SOUTH 66 FEET OF VACATED EAST MARKET STREET LYING NORTH OF AND ADJOINING THE VACATED NORTH/SOUTH ALLEY IN SAID BLOCK 29, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA (VACATED BY ORDINANCE NO. 8824, PASSED ON AUGUST 5, 1974)

AND

TRACT #3 (DEED BOOK 6710 PAGE 895)

LOTS ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), TEN (10) IN BLOCK TWENTY-NINE (29), NORTH AND SOUTH ALLEY BETWEEN SOUTHEAST 6TH STREET AND SOUTHEAST 7TH STREET EXTENDING FROM NORTH LINE OF ELM STREET TO SOUTH LINE OF EAST MARKET STREET IN BLOCK 29, TOWN OF DE MOINE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA (ALLEY VACATED BY ORDINANCE 5175 PASSED OCTOBER 3, 1949), ALL IN TOWN OF DE MOINE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA.

AND

TRACT #4 (DEED BOOK 5562 PAGE 33)

THAT VACATED PART OF ELM STREET RIGHT-OF-WAY LYING SOUTHERLY OF AND ADJOINING BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA (VACATED BY ORDINANCE NO. 10,766, PASSED MARCH 17, 1986).

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) The following uses shall be prohibited on the Property:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
  - f. Freestanding package goods stores for the sale of alcoholic beverages.
  - g. Pawnshops.
  - h. Printing, publishing houses and lithographing shops.
  - i. Plumbing and heating shops.
  - j. Miniwarehouse uses.
  - k. Freestanding taverns and night clubs.
  - l. Warehousing.
- (2) Any development on the Property shall be subject to the undergrounding of all overhead utilities to the maximum extent possible.
- (3) Any development on the Property shall re-establish East Elm Street right-of-way and improve it with a public street constructed with an urban cross section.
- (4) Any development on the Property shall improve Southeast 7th Street with an urban cross section.
- (5) Any development on the Property shall re-establish Market Street right-of-way and improve it with either a public pedestrian plaza or a public street constructed with an urban cross section.
- (6) Any development or site modifications on the Property shall be in accordance with a Site Plan that satisfies any applicable design guidelines, such as those for the "C-3B" District, the "D-O" Downtown Overlay District, and/or Multiple-Family Residential.

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:

A handwritten signature in cursive script that reads "Glenna K. Frank". The signature is written in black ink and is positioned above the printed name and title.

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: Hamm's Des Moines Company, Inc. (Owner) and TWG Development, LLC (Purchaser)  
Grantee's Name: City of Des Moines, Iowa  
Legal Description:

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PASSED MARCH 17, 1986).

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Hamm's Des Moines Company, Inc. is the sole titleholder, and TWG Development, LLC is the purchaser, of the Property locally known as 201 Southeast 6<sup>th</sup> Street and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "M-2" Heavy Industrial District to Limited "C-3B" Central Business Mixed-Use District classification, 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 owners successors, heirs and assigns as part of the ordinance so rezoning the Property:

- (1) The following uses shall be prohibited on the Property:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
  - f. Freestanding package goods stores for the sale of alcoholic beverages.
  - g. Pawnshops.
  - h. Printing, publishing houses and lithographing shops.
  - i. Plumbing and heating shops.
  - j. Miniwarehouse uses.
  - k. Freestanding taverns and night clubs.
  - l. Warehousing.

- (2) Any development on the Property shall be subject to the undergrounding of all overhead utilities to the maximum extent possible.
- (3) Any development on the Property shall re-establish East Elm Street right-of-way and improve it with a public street constructed with an urban cross section.
- (4) Any development on the Property shall improve Southeast 7th Street with an urban cross section.
- (5) Any development on the Property shall re-establish Market Street right-of-way and improve it with either a public pedestrian plaza or a public street constructed with an urban cross section.
- (6) Any development or site modifications on the Property shall be in accordance with a Site Plan that satisfies any applicable design guidelines, such as those for the "C-3B" District, the "D-O" Downtown Overlay District, and/or Multiple-Family Residential.

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-3B" Central Business Mixed-Use District classification, 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.



**Hamm's Des Moines Company, Inc.**

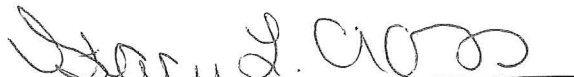


By: SCOTT E. JOHNSON  
Its: Dir.

State of Iowa            )  
                                  ) ss:  
County of Polk         )

On this 18th day of April, 2017, before me, a notary public, personally appeared SCOTT E. JOHNSON, to me personally known, who being by me duly sworn did say that he is the Director of Hamm's Des Moines Company, Inc., an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that he, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him/her voluntarily executed.



  
Notary Public in the State of Iowa

78A

**TWG Development, LLC**  
an Indiana limited liability company

[Signature]  
By: Tony Kaddie  
Its: Principal

State of Indiana )  
  ) ss:  
County of Marion )

This instrument was acknowledged before me on April 24, 2017, by  
Lewis A. Kaddie as a Principal of TWG Development, LLC.

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

