Roll Call Number

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Agenda Item Number
54C

Date April 9, 2018

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 3525 Vandalia Road from the "PUD" Planned Unit Development District to Limited "M-2" Heavy Industrial 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				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
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

54C

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.

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 3525 Vandalia Road from the "PUD" Planned Unit Development District to Limited "M-2" Heavy 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 3525 Vandalia Road, more fully described as follows, from the "PUD" Planned Unit Development District to Limited "M-2" Heavy Industrial District classification:

A PARCEL OF LAND BEING A PART OF AND LYING ENTIRELY WITHIN LOT 4 AND LOT 5 OF HENDERSON ESTATE, AN OFFICIAL PLAT, FORMING AND BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 18, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M.; THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 18, NORTH 87°29'01" WEST, 404.66'; THENCE SOUTH 02°30'59" WEST, 50.00' TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 00°17'55" EAST, 1274.78'; THENCE SOUTH 87°28'42" EAST, 684.20'; THENCE NORTH 00°17'55" WEST, 1274.82' TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 87°28'42" WEST, 277.12' TO A FOUND IRON ROD BEING ON THE EAST LINE OF SAID NORTHEAST QUARTER (NE ¼); THENCE CONTINUING ON SAID RIGHT OF WAY LINE, NORTH 87°29'01" WEST, 407.08' TO THE POINT OF BEGINNING.
CONTAINING 20.00 ACRES (871,165.61 SQ. FT.), MORE OR LESS.

AND

A PARCEL OF LAND BEING A PART OF AND LYING ENTIRELY WITHIN LOT 5 AND LOT 6 OF HENDERSON ESTATE, AN OFFICIAL PLAT, FORMING AND A BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 17, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M.; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER (NW ¼) OF SAID SECTION 17, SOUTH 87°28'42" EAST, 279.54'; THENCE SOUTH 02°31'18" WEST, 50.00' TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED, ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 87°28'42" EAST, 952.17'; THENCE SOUTH 02°21'18" WEST, 705.57'; THENCE NORTH 87°28'42" WEST, 24.73'; THENCE SOUTH 00°08'19" EAST, 568.32'; THENCE NORTH 87°28'42" WEST, 893.15'; THENCE NORTH 00°17'55" WEST, 1274.82' TO THE POINT OF BEGINNING.
CONTAINING 26.81 ACRES (1,167,787.14 SQ.FT.), MORE OR LESS.

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) Overhead doors shall not face Vandalia Road unless screen by another building.

2) Provision of landscaping in accordance with the City's standards for "C-2" Districts.

3) No portion of the north 100 feet of the Property may be used for the outside storage of materials or equipment. Any area used for the outside storage of materials or equipment shall be paved and screened from view from Vandalia Road.

4) The north, west and east facades of any building or portion thereof located within the north 100 feet of the Property which is not blocked from view from Vandalia Road by other structures or landscaping shall be construed using exterior materials that are predominately glass, brick, masonry, architectural steel panels and other durable materials. No Exterior Insulations and Finish System ("EIFS") shall be used below an elevation of 6 feet above grade on such facades.

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

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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:	Helena Industries, LLC (Owner)
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	A PARCEL OF LAND BEING A PART OF AND LYING ENTIRELY WITHIN LOT 4 AND LOT 5 OF HENDERSON ESTATE, AN OFFICIAL PLAT, FORMING AND BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SECTION 18, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M.; THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 18, NORTH 87°29'01" WEST, 404.66'; THENCE SOUTH 02°30'59" WEST, 50.00' TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 00°17'55" EAST, 1274.78'; THENCE SOUTH 87°28'42" EAST, 684.20'; THENCE NORTH 00°17'55" WEST, 1274.82' TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 87°28'42" WEST, 277.12' TO A FOUND IRON ROD BEING ON THE EAST LINE OF SAID NORTHEAST QUARTER (NE ¼); THENCE CONTINUING ON SAID RIGHT OF WAY LINE, NORTH 87°29'01" WEST, 407.08' TO THE POINT OF BEGINNING. CONTAINING 20.00 ACRES (871,165.61 SQ. FT.), MORE OR LESS. AND A PARCEL OF LAND BEING A PART OF AND LYING ENTIRELY WITHIN LOT 5 AND LOT 6 OF HENDERSON ESTATE, AN OFFICIAL PLAT, FORMING AND A BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 17, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M.; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER (NW ¼) OF SAID SECTION 17, SOUTH 87°28'42" EAST, 279.54'; THENCE SOUTH 02°31'18" WEST, 50.00' TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF VANDALIA ROAD AS PRESENTLY ESTABLISHED, ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 87°28'42" EAST, 952.17'; THENCE SOUTH 02°21'18" WEST, 705.57'; THENCE NORTH 87°28'42" WEST, 24.73'; THENCE SOUTH 00°08'19" EAST, 568.32'; THENCE NORTH 87°28'42" WEST, 893.15'; THENCE NORTH 00°17'55" WEST, 1274.82' TO THE POINT OF BEGINNING. CONTAINING 26.81 ACRES (1,167,787.14 SQ.FT.), MORE OR LESS. (Hereinafter referred to as "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Helena Industries, LLC is the sole titleholder of the Property locally known as 3525 Vandalia Road and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "PUD" Planned Unit Development District to Limited "M-2" Heavy Industrial District, 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 all successors, heirs and assigns as part of the ordinance so rezoning the Property:

   1) Overhead doors shall not face Vandalia Road unless screen by another building.

   2) Provision of landscaping in accordance with the City's standards for "C-2" Districts.

   3) No portion of the north 100 feet of the Property may be used for the outside storage of materials or equipment. Any area used for the outside storage of materials or equipment shall be paved and screened from view from Vandalia Road.

   4) The north, west and east facades of any building or portion thereof located within the north 100 feet of the Property which is not blocked from view from Vandalia Road by other structures or landscaping shall be construed using exterior materials that are predominately glass, brick, masonry, architectural steel panels and other durable materials. No Exterior Insulations and Finish System ("EIFS") shall be used below an elevation of 6 feet above grade on such facades.

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.

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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.

HELENA INDUSTRIES, LLC

By: Philip Berryman
Philip Berryman
President & CEO

State of ~~Iowa~~ TN)
) ss:
County of ~~Polk~~ Shelby)

This instrument was acknowledged before me on 4-2, 2018, by Philip Berryman as President and CEO of Helena Industries, LLC.

Jennie C Smith
Notary Public in and for the State of ~~Iowa~~ TN

JENNIE C. SMITH
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF SHELBY
My Comm. Expires May 11, 2019