



Roll Call Number

10-648

Agenda Item Number

58 B

Date April 26, 2010

WHEREAS, on April 12, 2010 by Roll Call No. 10-508, it was duly resolved by the City Council that the application of Broadway Storage, L.C. to rezone certain property located in the vicinity of 4448 and 4518 East 50th Street, more fully described below, be set down for hearing on April 26, 2010, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on April 15, 2010, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

Lots 2, 3 & 4, Broadway Business Park Plat 2, AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN POLK COUNTY, IOWA.

from the A-1 Agricultural District to Limited M-1 Light Industrial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- A. The following uses of structures and land shall be prohibited upon the Property:
 - a. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted;
 - b. Farms, except growing crops on any land that has not been improved;
 - c. Asphalt or concrete mixing or production facilities;
 - d. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances;
 - e. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated;
 - f. Cemeteries;
 - g. Adult entertainment businesses;
 - h. Arcades or game rooms as a substantial portion of a business;
 - i. Taverns and nightclubs;
 - j. Animal rendering or slaughter facility;
 - k. Off-premises advertising signage;
 - l. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility;

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- m. Jail, prison, or any other correctional facility of any kind;
 - n. Any public or private nuisance or illegal activity;
 - o. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks;
 - p. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
 - q. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
 - r. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
 - s. Package goods store for the sale of alcoholic beverages;
 - t. Vehicle display lots, including but not limited to used car sales lot;
 - u. Pawn brokerages; and,
 - v. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.
- B. The following standards shall apply to any building hereafter constructed for mini-warehouse use:
- 1. All storage unit building walls facing external to the site shall consist of a stone, masonry, or brick exterior material, or other durable material as approved by the Community Development Director.
 - 2. No storage access doors shall be oriented toward a public street or any adjoining residential development.
 - 3. No storage access doors shall be on the south façades of either the easternmost or westernmost mini-warehouse buildings.
 - 4. Any additional fencing along East 50th Street shall be wrought iron to match that along the Broadway Avenue frontage road.
- C. Outside storage on the premises shall be prohibited.
- D. Provision of down-lit shielded lighting to avoid shining obtrusively onto adjoining properties.

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- E. Sidewalks shall be installed within East 50th Street right-of-way along both the existing mini-warehouse site and the expansion site prior to the issuance of a Certificate of Occupancy for any building hereafter constructed.
- F. All facades on the exterior wall of any building facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director to be consistent with the overall development and design of Broadway Business Park.
- G. All overhead doors and loading docks on any principal or accessory building shall not face East 50th Street or East Broadway Avenue, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited M-1 Light Industrial District are hereby overruled, and the hearing is closed.

MOVED by Mahaffey to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

T. M. Franklin 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.

Diane Rauh City Clerk