

Date February 20, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
COMMERCIAL BAG & TEXTILE, INC. TO REZONE PROPERTY  
LOCATED AT 1244 2ND AVENUE**

**WHEREAS**, on July 27, 2015, by Roll Call No. 15-1301, the City Council approved Ordinance No. 15,392 rezoning a portion of the real property located at 1244 2<sup>nd</sup> Avenue ("Property") to Limited "M-1" Light Industrial District with conditions including the requirement that newly proposed buildings on the Property be constructed primarily of masonry block material; and

**WHEREAS**, on February 6, 2017, by Roll Call No. 17-0187, the City Council received communication from the City Plan and Zoning Commission advising that at a public hearing held on January 19, 2017, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Commercial Bag & Textile, Inc. (owner), represented by Julie Bassman (officer), to rezone the Property to eliminate the above-stated rezoning condition to allow the owner to retain buildings constructed on the Property after passage of Ordinance No. 15,392 inadvertently without masonry block material, and to revise the zoning conditions of the existing Limited "M-1" Light Industrial District as follows:

1. The following uses shall be prohibited on the Property:
  - a) Adult entertainment establishments;
  - b) Billiard parlor/game room;
  - c) Communication tower/antenna (unless as an extension of 20 feet or less from the structure);
  - d) Delayed deposit services;
  - e) Pawn brokers;
  - f) Gas stations/convenience stores;
  - g) Off-premises advertising signs;
  - h) Liquor stores where gross revenues of tobacco and alcohol products exceed 40%;
  - i) Taverns and nightclubs;
  - j) Contractors equipment storage yard;
  - k) Outdoor storage;
  - l) Vehicle display for sale or rental;
  - m) Circus, carnival, or similar enterprise;
  - n) Coalyard, cokeyard, or woodyard;
  - o) Concrete mixing or concrete products manufacture;
  - p) Bulk storage of flammable liquids;
  - q) Communication towers and antennas; and
  - r) Livery stable or riding academy.
2. The building height of any structure on the Property shall be limited to a maximum of 35 feet.
3. Any further expansion of existing buildings or construction of new buildings on the Property shall be constructed primarily of masonry block material compatible with the

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buildings existing as of the effective date of this ordinance. Storefronts oriented toward 2nd Avenue may have brick or lap siding material; and

**WHEREAS**, due notice of said hearing was published in the Des Moines Register, 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 Property, legally described as:

LOTS 143 THROUGH 147 AND A PART OF LOTS 141, 142 AND 148 AND A PART OF THE ALLEYS LYING ADJACENT TO THE PREVIOUSLY STATED LOTS IN RUTHERFURD HEIGHTS, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 145; THENCE SOUTH 00°26'23" EAST ALONG THE EAST LINE OF SAID LOTS 145, 146, 147 AND 148, A DISTANCE OF 162.99 FEET; THENCE SOUTH 89°49'21" WEST, 72.32 FEET; THENCE SOUTH 00°00'25" EAST, 28.40 FEET; THENCE SOUTH 89°49'21" WEST, 203.04 FEET TO THE EAST LINE OF LOT 139, RUTHERFURD HEIGHTS; THENCE NORTH 00°36'35" WEST ALONG THE EAST LINE OF LOTS 139 AND 138, RUTHERFURD HEIGHTS, 58.47 FEET TO THE NORTHEAST CORNER OF LOT 138, RUTHERFURD HEIGHTS; THENCE NORTH 00°13'59" EAST ALONG THE EAST LINE OF LOTS 137, 136 AND 135, RUTHERFURD HEIGHTS, 134.31 FEET TO THE NORTHEAST CORNER OF LOT 135, RUTHERFURD HEIGHTS; THENCE SOUTH 89°53'17" EAST ALONG THE NORTH LINE OF ALLEY AND LOTS 143, 144 AND 145, RUTHERFURD HEIGHTS, 274.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 50,801 SQUARE FEET.

from Limited "M-1" Light Industrial District to amended Limited "M-1" Light Industrial District, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property, which is binding upon the owner and its successors, heirs and assigns.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to amended Limited "M-1"

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Light Industrial District with conditions as set forth above, are hereby overruled, and the hearing is closed.

- 2. The proposed rezoning of the Property to amended Limited "M-1" Light Industrial District with conditions as set forth above, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY Gray TO ADOPT.

FORM APPROVED:

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

(ZON2016-00219)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

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.

T. M. Franklin  
Mayor

Diane Rauh  
City Clerk