



Roll Call Number

20-1611

Agenda Item Number

52B

Date October 5, 2020

An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-1.10 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located at 6000 Southeast 14th Street from MX-V Mixed Use District to CX-V Mixed Use District and the property locally known as 5907, 5911 & 5917 Southeast 8th Street, and 801 Hart from N3a – Neighborhood District to CX-V Mixed Use District classification",

which was considered and voted upon under Roll Call No. 20- 1610 of October 5, 2020; again presented.

Moved by Gatto that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass.

ORDINANCE NO. 15,929

NOTE: Waiver of this rule is requested by Theron J. Berg, Real Estate Manager

FORM APPROVED:

Judy K. Parks-Kruse
Judy K. Parks-Kruse
Assistant City Attorney

(ZON2020-00085)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>J. M. Franklin Cownie</u> Mayor				

CERTIFICATE

I, P. Kay Cmelik, 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.

P. Kay Cmelik

City Clerk

20-1611

Mayor and City Council
City of Des Moines
400 Robert D. Ray Drive
Des Moines, IA 50309

RE: Proposed rezoning of property located in the vicinity of 6000 Southeast 14th Street, 5907,
5911 & 5917 Southeast 8th Street, and 801 Hart Avenue

To the Mayor and City of Des Moines City Council:

Please accept this request to waive the three required readings of the ordinance to rezone the above
referenced real property.

Thank you.

Sincerely,


Signature

By: Theron J. Berg

Its: Real Estate Manager

52B
20-1611

Prepared by: Judy K. Parks-Kruse, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309 Phone: 515/283-4533
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: Menard, Inc. (Owner/Purchaser), Nicholas Dingeman (Owner), Barbara Orr (Owner) Kimberly Howland (Owner) and Carol Shields (Owner)
Grantee's Name: City of Des Moines, Iowa
Legal Description: **PARCEL 1 (6000 SOUTHEAST 14TH STREET):**
THE SOUTH HALF (S ½) OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., POLK COUNTY, IOWA.

EXCEPT:

PARCEL "C" IN THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL BEING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 27; THENCE SOUTH 00°00'00" EAST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 834.66 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 60.00 FEET, TO A POINT ON THE WESTERLY RIGHT-OF-WAY (R.O.W.) LINE OF S.E. 14TH STREET (U.S. HIGHWAY 69), SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE SOUTH 00°00'00" EAST, ALONG SAID WESTERLY R.O.W. LINE OF S.E. 14TH STREET, A DISTANCE OF 127.14 FEET;
THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 266.56 FEET;
THENCE NORTH 40°37'26" WEST, A DISTANCE OF 54.49 FEET;
THENCE NORTH 23°55'15" EAST, A DISTANCE OF 93.84 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 263.99 FEET, TO A POINT ON THE SAID WESTERLY R.O.W. LINE OF S.E. 14TH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING, CONTAINING 36,035 SQUARE FEET, MORE OR LESS; RECORDED IN POLK COUNTY BOOK 10068 AT PAGE 308.

AND

PARCEL "F" IN THE SOUTH ½ OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. POLK COUNTY, IOWA, AS DESCRIBED ON THE AMENDED PLAT OF SURVEY RECORDED JUNE 16, 2006 IN BOOK 11704, PAGE 659 IN THE OFFICE OF THE POLK COUNTY RECORDER.

PARCEL 2 (6000 SOUTHEAST 14TH STREET):

LOTS 5, 6 AND SOUTH 150 FEET OF WEST 88.4 FEET OF LOT 7, BOWLARAMA PLACE, ACCORDING TO THE PLAT THEREOF; AND ALSO NORTH HALF OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ (N½ OF NE¼ OF SE¼) OF SECTION 27, TOWNSHIP 78, RANGE 24 WEST OF THE 5TH PRINCIPAL MERIDIAN, EXCEPT THE EAST 661.4 FEET AND EXCEPT THE NORTH 505.7 FEET THEREOF, POLK COUNTY, IOWA.

5907 SE 8TH STREET:

LOT 9 AND THE SOUTH 6.5 FEET OF LOT 8 IN JORDAN PLACE PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

5911 SE 8TH STREET:

LOT 10 IN JORDAN PLACE PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

5917 SE 8TH STREET:

LOT 11 IN JORDAN PLACE PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

801 HART AVENUE:

LOT 12 IN JORDAN PLACE PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Menard, Inc. is the titleholder of the Property locally known as 6000 Southeast 14th Street, and Nicholas Dingeman, Barbara Orr, Kimberly Howland and Carol Shields are the titleholders and Menard, Inc. is the purchaser for 5907, 5911 & 5917 Southeast 8th Street, and 801 Hart Avenue and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the property located at 6000 Southeast 14th Street from MX-V Mixed Use District to CX-V Mixed Use District and the property located at 5907, 5911 & 5917 Southeast 8th Street, and 801 Hart from N3a – Neighborhood District to CX-V Mixed Use 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. That the development shall be carried out in accordance with the Large-scale development plan presented to the Plan and Zoning Commission;

2. That no outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing;
3. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures;
4. Any use of the Property for a bar or a liquor store shall be prohibited;
5. Any commercial use of the Property shall be in conformance with an approved site plan that demonstrates that the entire site is in conformance with the current landscaping standards contained in City Code Chapter 135. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.)
6. Any commercial expansion on the Property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements;
7. All necessary permits shall be obtained for the construction of any building or wall upon the Property;
8. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the City's Planning Administrator, certifying that the Property has been improved in substantial conformance with the approved site plan; and

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 CX-V Mixed Use 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 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.

[Signature Pages to Follow]

MENARD, INC



By: Theron J. Berg
Its: Real Estate Manager

State of Wisconsin)
) ss:
County of Eau Claire)

This instrument was acknowledged before me on September 29, 2020, by Theron J. Berg as Real Estate Manager of Menard, Inc.





Notary Public in and for the State of
Wisconsin
My Commission is permanent.