



Roll Call Number

20-1832

Agenda Item Number

56 B

Date November 9, 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 3121 Forest Avenue from a MX1 Mixed Use District to Limited MX3 Mixed Use District classification",

which was considered and voted upon under Roll Call No. 20-1831 of November 9, 2020; again presented.

Moved by Gray 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. 15,941

NOTE: Waiver of this rule is requested by Abbey Gilroy, Executive Director, Neighborhood Development Corporation, Property Owner.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

(ZON2020-00109)

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED checkboxes, and a signature for Mayor J. M. Franklin.

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.
Signature of P. Kay Cmelik
City Clerk

20-1832



NDCDM.ORG

October 21, 2020

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

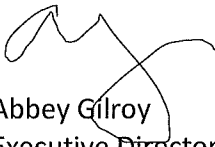
RE: 3121 Forest Ave - Rezoning request

Dear Mayor and City of Des Moines City Council:

Please accept this request to waive the 2nd and 3rd required readings of the ordinance to rezone the above referenced property.

Thank you for your consideration.

Sincerely,



Abbey Gilroy
Executive Director

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. 15,941
Grantor/Grantee: City of Des Moines, Iowa
Legal Description: See page 1, below.

ORDINANCE NO. 15,941

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 3121 Forest Avenue from a MX1 Mixed Use District to Limited MX3 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 134-1.10 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 at 3121 Forest Avenue from a MX1 Mixed Use District to Limited MX3 Mixed Use District classification:

LOTS 13,14 AND 15 OF BLOCK 7 IN MERRITT & FISCHERS PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Section 2. That this ordinance and the zoning for 3121 Forest Avenue 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 only Permitted and Conditional Uses on the Property shall be sales of packaged alcoholic liquor following and subject to approval of a Conditional Use by the Zoning Board of Adjustment, and those Permitted and Conditional Uses in common with and as limited by the MX1 Mixed Use District.
- (2) Accessory structures located on the Property shall be limited to those permitted in the MX1 Mixed Use District in accordance with Des Moines Municipal Code Chapter 135, Table 135-2.22-1.

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:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

Ordinance No. 15,941 cont'd


T. M. Franklin Cownie, Mayor

Attest: I, P. Kay Cmelik, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 20- 1832), passed by the City Council of said City at a meeting held on November 9, 2020 and signed by the Mayor on November 9, 2020 and published and provided by law in the Business Record on November 27, 2020. Authorized by Publication Order No. 11323 .


P. Kay Cmelik, City Clerk

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: Neighborhood Development Corp (Titleholder), Casey's Marketing Company (Purchaser)
Grantee's Name: City of Des Moines, Iowa
Legal Description: LOTS 13,14 AND 15 OF BLOCK 7 IN MERRITT & FISCHERS PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. (hereinafter "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. Neighborhood Development Corp is the titleholder and Casey's Marketing Company is the purchaser of the Property locally known as 3121 Forest Avenue and legally described above

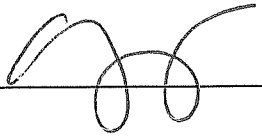
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from MX1 Mixed Use District to Limited MX3 Mixed Use District, we agree and accept on behalf of the owners to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

- (1) The only Permitted and Conditional Uses on the Property shall be sales of packaged alcoholic liquor following and subject to approval of a Conditional Use by the Zoning Board of Adjustment, and those Permitted and Conditional Uses in common with and as limited by the MX1 Mixed Use District.
- (2) Accessory structures located on the Property shall be limited to those permitted in the MX1 Mixed Use District in accordance with Des Moines Municipal Code Chapter 135, Table 135-2.22-1.

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. 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.

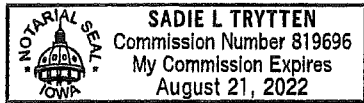
NEIGHBORHOOD DEVELOPMENT CORP.

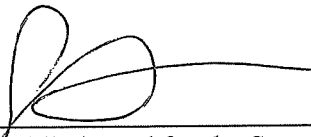


By: Abbey Gilroy
Its: Director

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on November 2, 2020, by Abbey Gilroy as Director of Neighborhood Development Corp.





Notary Public in and for the State of Iowa

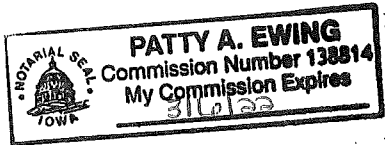
CASEY'S MARKETING COMPANY

Julie Jackowski

By: Julie Jackowski
Its: Secretary

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on November 2, 2020, by Julie Jackowski as Secretary of Casey's Marketing Company.



Patty A. Ewing
Notary Public in and for the State of Iowa