

Date July 10, 2006

WHEREAS, on June 19, 2006, by Roll Call No. 06-1206, it was duly resolved by the City Council that the application of Vista Real Estate and Investment Corporation represented by Al Rivers, as expanded by the Plan and Zoning Commission to rezone certain property owned by Broadway Distributing Company, the Donald L. Lamberti Trust, Donald L. Lamberti, the Gena Lamberti Trust, and Casey's General Stores, Inc., and located west of E. 14th Street and south of E. Broadway (NE 46th Avenue) more fully described below, be set down for hearing on July 10, 2006, at 5:00 P.M., in the Council Chamber of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on June 28, 2006, 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:

**From "A-1" Agricultural District to Limited "M-1" Light Industrial District:**

Lots 9 and 10, except the North 7 feet thereof, in Stickler Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

**From "M-1" Light Industrial District to Limited "M-1" Light Industrial District:**

The West 76 feet of Lot 16, Stickler Heights, an Official Plat, and Lot 14 of said Stickler Heights, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, except the following portions of said Lot 14:

That part of said Lot 14 lying North of a line beginning 2 feet South of the Northeast corner of said Lot 14, thence Westerly to a point 19 feet South of the Northwest corner of said Lot 14;

The East 54 feet of the South 189.71 feet of the North 191.71 feet of said Lot 14;

The East 257 feet of the South 129.8 feet of the North 321.51 feet of said Lot 14; and,

The East 54 feet of the North 198 feet of the South 396 feet of said Lot 14.

**From "M-1" Light Industrial District to Limited "C-2" General Retail and Highway Oriented Commercial District:**

The East 257 feet of the South 129.8 feet of the North 321.51 feet of said Lot 14; the East 54

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feet of the North 35.2 feet of the South 396 feet of said Lot 14; and, the North 35.2 feet of Lot 15, all in Stickler Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

**From "M-1" Light Industrial District to "C-2" General Retail and Highway Oriented Commercial District:**

Lots 11 and 12 (except the North 2 feet thereof); all Lot 13; and the East 54 feet of the North 191.71 feet of Lot 14 (except the North 2 feet thereof); all in Stickler Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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 the affected property and is binding upon the owners and their successors, heirs and assigns as follows:

A. The following conditions shall apply to those portions of the Property described above which are rezoned to a Limited "M-1" Light Industrial District:

- 1) The following uses of structures and land shall not be permitted upon the Property:
  - a) Adult entertainment business;
  - b) Animal rendering and slaughtering facilities;
  - c) Asphalt and concrete mixing;
  - d) Automobile display, hire, rental and sales, including used car sales lots;
  - e) Mobile home parks;
  - f) Off-premises advertising signs;
  - g) Pawn shops, payroll and title loan institutions; and,
  - h) Taverns and night clubs.
- 2) Upon any development or redevelopment of any lot or parcel having frontage upon NE Broadway Avenue (NE 46th Avenue), a 25 foot wide landscaped strip shall be provided upon such lot or parcel adjacent to NE Broadway Avenue, consisting at a minimum of a 2 foot high berm with 4:1 side slopes and one (1) overstory tree and three (3) shrubs from the approved species in the adopted Des Moines Landscape standards per 30 lineal feet of frontage.
- 3) In addition to paragraph 2) above, landscaping shall be provided upon the development or redevelopment of any lot or parcel to satisfy the minimum landscape standards applicable to development in the "C-2" District under the adopted Des Moines Landscape Standards.

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- 4) A six (6') foot wide public sidewalk shall be provided as part of any site plan for the development or redevelopment of property fronting NE Broadway Avenue.
  - 5) All outside trash containers must be enclosed with an enclosure matching the primary building materials of the habitable structures.
  - 6) Any outdoor storage of equipment and materials shall be restricted to an area located south of the southernmost wall of a building on the lot (extended to the east and west lot lines of the lot). In no event shall any outdoor storage of equipment and materials be setback less than 250' from the south line of the NE Broadway Avenue (NE 46th Avenue) right-of-way. The perimeter of any outdoor storage area shall be enclosed by a 100% opaque wood or masonry fence. No materials may be stacked higher than the height of the perimeter fence of the outdoor storage area."
  - 7) All buildings hereafter constructed or placed upon the Property shall satisfy the following architectural design requirements:
    - a. No metal (such as standing seam metal) or synthetic stucco material (such as EFIS or Dryvit) shall be used as an exterior material below 4 feet above grade on any exterior facade.
    - b. No overhead doors or loading docks shall face NE Broadway Avenue unless the building is setback at least 400 feet from the NE Broadway Avenue right-of-way.
    - c. Pole construction buildings are prohibited.
  - 8) All buildings hereafter constructed or placed upon lots and parcels with frontage upon NE Broadway Avenue shall satisfy the following additional architectural design requirements:
    - a. At least 60% of the exterior facade facing NE Broadway Avenue, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
    - b. Not more than 40% of the exterior facade facing NE Broadway Avenue shall be metal or synthetic stucco (such as EFIS or Dryvit).
    - c. The required materials used for the exterior facades facing NE Broadway Avenue must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing NE Broadway Avenue.
- B. The following conditions shall apply to those portions of the Property described above which are rezoned to a Limited "C-2" General Retail and Highway Oriented Commercial District:

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- 1) The following uses of structures and land shall not be permitted upon the Property:
  - a) Adult entertainment business;
  - b) Automobile display, hire, rental and sales, including used car sales lots;
  - c) Mobile home parks;
  - d) Off-premises advertising signs;
  - e) Pawn shops, payroll and title loan institutions; and,
  - f) Taverns and night clubs.
  
- 2) Landscaping shall be provided upon the development or redevelopment of any lot or parcel to satisfy the minimum landscape standards applicable to development in the "C-2" District under the adopted Des Moines Landscape Standards.
  
- 3) A six (6') foot wide public sidewalk shall be provided as part of any site plan for the development or redevelopment of property fronting NE 14th Street .
  
- 4) Outdoor storage of equipment and materials shall be located entirely behind the northernmost and westernmost walls of the principal building. All remaining perimeters of the outdoor storage area shall be screened by a 100% opaque wood or masonry fence. No materials may be stacked higher than the height of the perimeter fence.
  
- 5) All buildings constructed or placed on this portion of the Property shall satisfy the following architectural design requirements:
  - a. At least 60% of the exterior facade facing NE 14<sup>th</sup> Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
  - b. Not more than 40% of the exterior façade facing NE 14<sup>th</sup> Street shall be metal (such as standing seam metal) or synthetic stucco (such as EFIS or Dryvit).
  - c. No metal (such as standing seam metal) or synthetic stucco material (such as EFIS or Dryvit) shall be used as an exterior material below 4 feet above grade on any exterior facade.
  - d. The required materials used for the exterior facades facing a public street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the street facade.
  - e. No overhead doors or loading docks shall face SE 14th Street.
  - f. Pole construction buildings are prohibited.

WHEREAS, the City Plan and Zoning Commission considered the proposed rezoning at its meeting on July 6, 2006, and has submitted the accompanying report and recommendation; NOW THEREFORE,

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

1. 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.
2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

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

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
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