



Date November 18, 2013

RESOLUTION CLOSING HEARING AND CONDITIONALLY APPROVING APPLICATION BY GALINSKY FAMILY REAL ESTATE, LLC, TO REZONE CERTAIN PROPERTY LOCATED IN THE VICINITY OF 5035 HUBBELL AVENUE FROM THE "A-1" AGRICULTURAL DISTRICT TO A LIMITED "M-1" LIGHT INDUSTRIAL

WHEREAS, on October 21, 2013 by Roll Call No. 13-1626, it was duly resolved by the City Council that the application of Galinsky Family Real Estate, LLC, to rezone certain property located in the vicinity of 5035 Hubbell Avenue from the "A-1" Agricultural District to a Limited "M-1" Light Industrial District classification, more fully described below, be set down for hearing on November 4, 2013, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on October 24, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, on November 4, 2013, by Roll Call No. 13-1748, the hearing on the proposed amendment to the Zoning Ordinance was continued until November 18, 2013, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, in accordance with the notice those interested in the 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 44 and 45, Glen Acres, an Official Plat, and the West 330 feet of the North 660 feet of the Northeast 1/4 of the Northwest 1/4 of Section 22, Township 79 North, Range 23 West of the 5th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa, except streets (hereinafter referred to as the "Property").

from the "A-1" Agricultural District to a Limited "M-1" Light Industrial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the Property and are 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:
1. 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.
2. Farms, except growing crops on any land that has not been improved.
3. Asphalt or concrete mixing or production facilities.
4. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances.



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5. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated.
 6. Cemeteries.
 7. Adult entertainment businesses.
 8. Arcades or game rooms as a substantial portion of a business.
 9. Taverns and nightclubs.
 10. Animal rendering or slaughter facility.
 11. Off-premises advertising signage.
 12. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility.
 13. Jail, prison, or any other correctional facility of any kind.
 14. Any public or private nuisance or illegal activity.
 15. 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.
 16. 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.
 17. 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.
 18. 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.
 19. Package goods store for the sale of alcoholic beverages.
 20. Vehicle display lots, including but not limited to used car sales lot.
 21. Pawn brokerages.
 22. 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 miniwarehouse 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, any adjoining residential zoning or development, or toward the west property line.
- C. Any fencing along the north, west, and south perimeter of the site shall consist of wrought iron style fencing unless providing a privacy fence is necessary to provide screening for an adjoining property.
- D. Outside storage on the premises shall be prohibited unless it occurs within an area fully screened by fencing or landscaping that is at least as tall as the items being stored.
- E. Provision of downward directed, shielded lighting to avoid shining obtrusively onto adjoining properties.



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- 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 as being comparable in overall quality.
- G. All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- H. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

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, 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

Roger K. Brown, Assistant City Attorney
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NOTE: Six affirmative votes required for passage of the rezoning ordinance. A sufficient protest petition has been received.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MOORE				
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

Re: OBJECTION to ACCEPTANCE OF REZONING ORDINANCE to rezone certain property located in the vicinity of 5035 Hubbell Avenue from "A-1" Agricultural District to a limited "M-1" Light Industrial, at PUBLIC HEARING, Tuesday, November 18, 2013, 5:00 pm. (Zon2013-000156)

TO THE CITY CLERK AND MAYOR AND MEMBERS OF THE DES MOINES CITY COUNCIL:

Broadway Storage, LC, is objecting because we feel the present retail use of the existing lands within the A-1 designation, or possible R-3 rezoning to allow new multi-family development at this location, would better benefit the existing and planned commercial activities on our lands and further enhance the value of adjacent residential development.

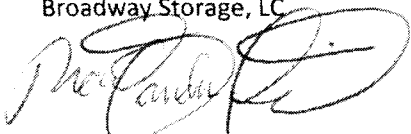
So you know, the resolution now before the City Council conditionally approving the rezoning from "A-1" Agricultural District to a limited M-1" Light Industrial classification *is a significant departure* from the Planning and Zoning Commission recommendation forwarded to the City Council, namely because it would allow outside storage at this location.

Broadway Storage, LC, feels this change from the original Planning and Zoning Commission recommendation could allow a potentially wide array of unknown industrial uses that could have a negative impact on present adjacent uses. For instance, Broadway Storage, LC, does not want any of these potential uses with outside storage:

1. Establishment of a walk-in auto salvage retail outlet in which salvage operations of junked cars and trucks could be conducted behind large opaque fences;
2. Establishment of outside Camper and RV storage that would be similar in use and design to Capitol City Storage operations as seen from I35/80 corridor near Grimes and Urbandale, which could be conducted behind large opaque fences. (Note: outside storage was a prohibited use to Broadway Storage, LC, at the time of development of the adjacent mini-warehouse facility.);
3. Wholesale landscape installation operations in which mulch, retaining wall block, irrigation pipe, trucks and installation equipment, and temporary landscape plant inventory could be stored outside and clearly visible;
4. Municipal Utility pipe distributors and fabricators that stack sanitary sewer pipe inventory and concrete storm sewer structures and pipe could be stored outside and clearly visible;
5. Fencing distributors and installers who would store rolls of wire and pipe outside that could be clearly visible;
6. Other potential adverse outside storage uses not now contemplated by this objection.

Thank you for consideration of our concerns.

Broadway Storage, LC



Brad Vander Linden, CCIM

Managing Member

1400 North 14th Street

Indianola, IA 50125

Mobile: (515) 689-0423

Office: (515) 961-5710

Fax: (515) 280-2000

Email: brad.vander.linden@gmail.com