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FILED FOR RECORD
POLK COUNTY, IOWA

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ORDINANCE NO. 11,767

TIMOTHY J. BRIEN

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 2A-5 of the Municipal Code of the City of Des Moines, 1991, by rezoning and changing the district classification of certain property located in the vicinity of Harding Road and Ingersoll Avenue, more fully described as follows:

Lots 2, 3, and the West one-half (1/2) of PLAT # 054455
Lot 4, Harding Road Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,
RECORDING FEE 45.00
AUDITOR FEE _____

from a "C-2" General Retail and Highway Oriented Commercial District classification to a Limited "C-3A" Central Business District Support Commercial 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 2A-5 of the Municipal Code of the City of Des Moines, Iowa, 1991, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of Harding Road and Ingersoll Avenue, more fully described as follows:

Lots 2, 3, and the West one-half (1/2) of Lot 4, Harding Road Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

from a "C-2" General Retail and Highway Oriented Commercial District classification to a Limited "C-3A" Central Business District Support Commercial District.

Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by

CITY CLERK'S OFFICE
CITY HALL - E. 1st & LOCUST
DES MOINES, IA 50307

BOOK 6508 PAGE 818

55A

Ordinance No. _____

execution of the attached written Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (A) The height of any building or other structure located upon said real estate shall not exceed 45 feet above ground level.
- (B) There shall be no vehicle access on the west side of the building.
- (C) The use of the said real estate shall be limited to:
 - (1) Any use permitted in "C-2" district.
 - (2) Automobile body and fender repair shop, but not including wrecking or used parts yards or outside storage of automobile component parts.
 - (3) Manufacturing, packaging and storage of dairy products, provided all activities, except off-street loading and parking, shall take place within completely enclosed buildings.
 - (4) Manufacture or treatment of products incidental to the conduct of retail business carried out on the premises, provided all activities, except off-street loading and parking, shall take place within completely enclosed buildings.
 - (5) Printing and publishing houses.
 - (6) Warehousing, retail or wholesale.
 - (7) Combination of the above uses.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance, the attached Acceptance of Rezoning Ordinance and proof of publi-

BOOK 6508 PAGE 819

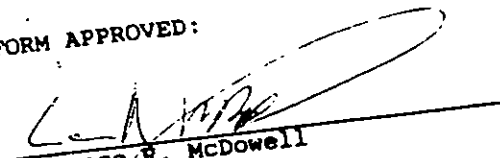
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Ordinance No. _____

cation thereof to be properly filed in the office of the
Recorder of Polk County, Iowa.

FORM APPROVED:



Lawrence R. McDowell
City Solicitor
Intergovernmental Programs

BOOK 6508 PAGE 820

11,767

ACCEPTANCE OF REZONING ORDINANCE

We, the undersigned, being duly sworn, upon oath, do state:

(1) That The Thompson Trust is the owner of the following described real estate in the vicinity of Harding Road and Ingersoll Avenue, subject to a lease to the Paul Manning Holding Company and subject to a sublease to Tony Jaquinta:

Lots 2, 3, and the West one-half (1/2) of Lot 4, Harding Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, (the "Property").

(2) That in the event the City of Des Moines, Iowa, acts to rezone the Property from a "C-2" General Retail and Highway Oriented Commercial District classification to a Limited "C-3A" Central Business District Support Commercial District classification, 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:

- (A) The height of any building or other structure located upon said real estate shall not exceed 45 feet above ground level.
- (B) There shall be no vehicular access on the west side of the building.
- (C) The use of the said real estate shall be limited to:
 - (1) Any use permitted in "C-2" district.
 - (2) Automobile body and fender repair shop, but not including wrecking or used parts yards or outside storage of automobile component parts.
 - (3) Manufacturing, packaging and storage of dairy products, provided all activities, except off-street loading and parking, shall take place within completely enclosed buildings.
 - (4) Manufacture or treatment of products incidental to the conduct of retail business carried out on the premises, provided all activities, except off-street loading and parking, shall take place within completely enclosed buildings.
 - (5) Printing and publishing houses.
 - (6) Warehousing, retail or wholesale.
 - (7) Combination of the above uses.

BOOK 6508 PAGE 821

(3) That in the event the Property is hereafter rezoned to a district classification different from limited "C-3A", then this Acceptance shall be immediately terminated 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, and 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.

THE THOMPSON TRUST

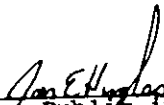
BY Luther L. Hill, Jr.
Luther L. Hill, Jr., Trustee

PAUL MANNING HOLDING COMPANY

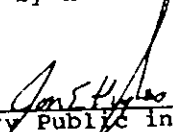
By: John J. McLaughlin
John J. McLaughlin, Vice President

Tony Jaquinta
Tony Jaquinta


BE IT REMEMBERED, that on this 16 day of December, 1991, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared Luther L. Hill, Jr., to me personally known, who, being by me duly sworn did say that he is the Trustee of said Trust; that said instrument was signed and sealed on behalf of said Trust by him as its Trustee; and that the said Luther L. Hill, Jr., as such Trustee acknowledged the execution of said instrument to be the voluntary act and deed of said Trust; and him voluntarily executed.


Notary Public in and for the State of Iowa

BE IT REMEMBERED, that on this 16 day of December, 1991, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared John J. McLaughlin, to me personally known, who, being by me duly sworn did say that he is the Vice President of said Corporation; that no seal has been procured by the said) ~~(the seal affixed thereto is the seal of said) Corporation~~; that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors; and that the said John J. McLaughlin, as such office acknowledged the execution of said instrument to be the voluntary act and deed of said Corporation, and by it and by him voluntarily executed.


Notary Public in and for the State of Iowa

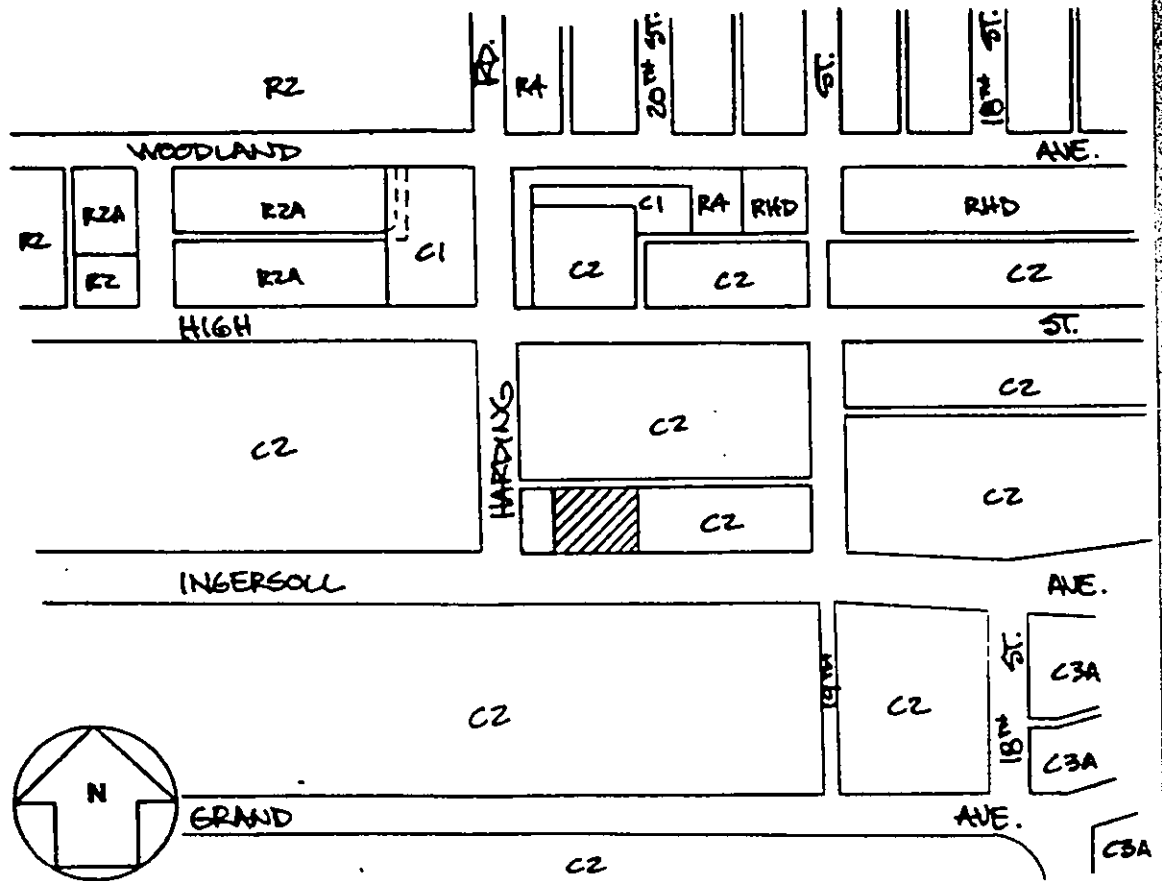
BE IT REMEMBERED, that on this 9th day of December, 1991, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared Tony Jaquinta, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.


Notary Public in and for the State of Iowa

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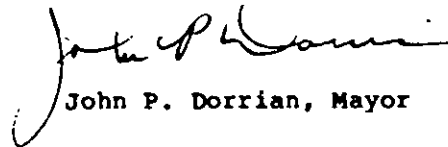
EXHIBIT "A"

10-92-3.13



BOOK 6508 PAGE 825

Ordinance No. 11,767 cont'd.


John P. Dorrian, Mayor

Attest:

I, Donna V. Boetel-Baker, 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. 92-183), passed by the City Council of said City at a meeting held January 20, 1992, signed by the Mayor January 20, 1992, and published as provided by law in the Business Record on February 3, 1992. Authorized by Publication Order No. 2746.


Donna V. Boetel-Baker, City Clerk

BOOK 6508 PAGE 826