

★ **Roll Call Number**

✓
Agenda Item Number

41A

Date January 27, 2014

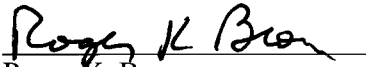
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3301 E. Euclid Avenue from the "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\REZONING\Kwik Trip - 3301 E. Euclid\Ordinance Roll Calls V2.docx

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
VOSS				
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

ORDINANCE NO. _____

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3301 E. Euclid Avenue from the "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District.

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 134-277 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 in the vicinity of 3301 E. Euclid Avenue, more fully described as follows, from the "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification:

A parcel of land located in the Northwest 1/4 of the Northeast 1/4 of Section 29, Township 79 North, Range 23 West of the 5th P.M., being in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:
Beginning at a Point 718.2 feet South and 64.5 feet East of the North 1/4 corner of said Section 29; thence South 87°14'30", East along the South right-of-way line of Euclid Avenue, 186.19 feet; thence South 18°40'59" West, 37.76 feet; thence South 25°36'31" West, 69.07 feet; thence South 21°24'49" West, 22.05 feet; thence South 68°53'53", West, 33.05 feet; thence South 55°44'58" West, 29.26 feet; thence South 81°42'17" West, 29.99 feet; thence North 86°49'52" West, 11.64 feet; thence North 75°31'49" West, 10.28 feet; thence North 61°09'23" West, 23.04 feet; thence North 13°48'07" West, 14.85 feet; thence North 18°35'53" West, 39.25 feet to the East right-of-way of East 33rd Street; thence North 03°26'30" East along said East right-of-way line of East 33rd Street, 94.74 feet to the Point of Beginning and containing 0.53 acres (23,207 S.F.).

Section 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 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:

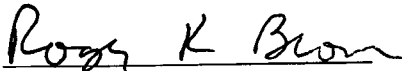
The following uses of structures or land shall not be permitted on the subject property:

- a) Any business required to have a Class E Liquor License.
- b) Adult entertainment businesses.
- c) Delayed deposit services.
- d) Off-premises advertising signs.
- e) Taverns and nightclubs.
- f) Vehicle display lots.

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

Section 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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Prepared by: Roger K. Brown, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA
50309 515/283-4541

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: Wohl Quick LLC, and Kwik Trip, Inc.

Grantee's Name: City of Des Moines, Iowa

Legal Description:

All that portion of Lot 3 and the North 36 feet of Lot 4, DARNES PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Quick Wohl, L.L.C., a California limited liability corporation, is the sole titleholder, and Kwik Trip, Inc., d/b/a Tobacco Outlet Plus, is the lessee of the Property in the vicinity of 3301 E. Euclid Avenue, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the following described portion of the Property from the "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification,

SEE EXHIBIT A

and to rezone the balance of the Property to a Limited "U-1" Floodplain 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:

- The following uses of structures or land shall not be permitted on the Property:
- a) Any business required to have a Class E Liquor License.


- b) Adult entertainment businesses.
- c) Delayed deposit services.
- d) Off-premises advertising signs.
- e) Taverns and nightclubs.
- f) Vehicle display lots.

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 Limited "C-2" and "U-1" as identified above, 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.

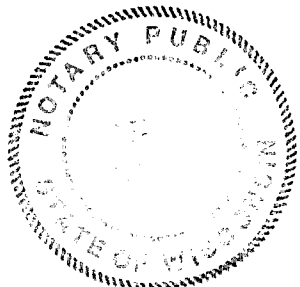
Kwik Trip, Inc.
a Wisconsin corporation

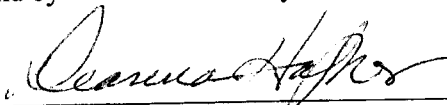
By: 
Signature of officer

Donald P. Zietlow, President
Print name and title of officer

Wisconsin
State of ~~Iowa~~)
La Crosse) SS:
County of ~~Polk~~)

On this 23rd day of January, 201~~7~~⁴, before me, a notary public, personally appeared Donald P. Zietlow, to me personally known, who being by me duly sworn did say that he/she is the President of **Kwik Trip, Inc.**, a Wisconsin corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that he/she, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him/her voluntarily executed.




Notary Public in the State of Iowa
My commission expires: 1/9/18

411A

Acceptance of Rezoning Ordinance
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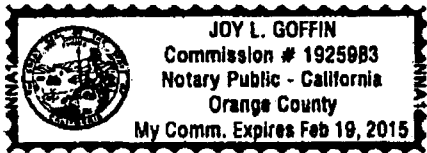
Wohl Kwik LLC
a California limited liability company

By: [Signature]
Eric Wohl, Manager

State of California)
) ss:
County of Orange)

On this 23RD day of JANUARY, 2014, before me, a notary public, personally appeared Eric Wohl, to me personally known, who being by me duly sworn did say that he is a Managing Member of Wohl Kwik LLC, a California limited liability company; that Wohl Kwik LLC, is a **member managed company**; and, that he signed the foregoing instrument on behalf of said company by authority of its members, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said company, by it and by him voluntarily executed.

[Signature]
Notary Public in the State of California
My commission expires: 2-19-15



C-2 ZONING DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., BEING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 718.2 FEET SOUTH AND 64.5 FEET EAST OF THE NORTH 1/4 CORNER OF SAID SECTION 29; THENCE SOUTH 87° 14' 30" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF EUCLID AVENUE, 186.19 FEET; THENCE SOUTH 18° 40' 59" WEST, 37.76 FEET; THENCE SOUTH 25° 36' 31" WEST, 69.07 FEET; THENCE SOUTH 21° 24' 49" WEST, 22.05 FEET; THENCE SOUTH 68° 53' 53" WEST, 33.05 FEET; THENCE SOUTH 55° 44' 58" WEST, 29.26 FEET; THENCE SOUTH 81° 42' 17" WEST, 29.99 FEET; THENCE NORTH 86° 49' 52" WEST, 11.64 FEET; THENCE NORTH 75° 31' 49" WEST, 10.28 FEET; THENCE NORTH 61° 09' 23" WEST, 23.04 FEET; THENCE NORTH 13° 48' 07" WEST, 14.85 FEET; THENCE NORTH 18° 35' 53" WEST, 39.25 FEET TO THE EAST RIGHT-OF-WAY LINE OF EAST 33RD STREET; THENCE NORTH 03° 26' 30" EAST ALONG EAST RIGHT-OF-WAY LINE OF EAST 33RD STREET, 94.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.53 ACRES (23,207 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.