

★ **Roll Call Number**

Agenda Item Number

41C

.....
Date January 22, 2007
.....

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 the 2200 block of East Pine Avenue from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density Residential District and Limited "R1-80" One-Family Residential District classifications",

presented.

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

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\WORK\REZONING\Tobis.doc

(First of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	

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.

Mayor

City Clerk

41C

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 the 2200 block of East Pine Avenue from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density Residential District and Limited "R1-80" One-Family Residential District classifications.

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 the 2200 block of East Pine Avenue, more fully described as follows, from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density Residential District and Limited "R1-80" One-Family Residential District classifications as provided below:

Parcel "A" hereby rezoned to a Limited "R-3" Multiple Family Residential District (up to 17 units per acre):

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE, A PLATTED STREET; THENCE S89°57'13"W, 1414.44 FEET ALONG SAID NORTH R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W, 1181.69 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INDIANOLA AVENUE, A PLATTED STREET; THENCE N00°13'10"W, 822.33 FEET ALONG SAID EAST R.O.W. LINE TO A POINT; THENCE S89°28'59"E, 519.69 FEET TO A POINT; THENCE N00°14'24"W, 177.47 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'K' (RECORDED IN BOOK 10394, PAGE 736), IN SAID SECTION 36 ; THENCE N90°00'00"E, 665.91 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S00°00'00"W, 994.15 FEET TO THE POINT OF BEGINNING AND CONTAINING 24.937 ACRES, MORE OR LESS.

Parcel "B" hereby rezoned to a Limited "R-3" Multiple Family Residential District (limited to a maximum of 12 units per acre):

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE, A PLATTED STREET; THENCE S89°57'13"W, 715.10 FEET ALONG SAID NORTH R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W, 699.34 FEET ALONG SAID NORTH R.O.W. LINE TO A POINT; THENCE N00°00'00"E, 994.15 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'K' (RECORDED IN BOOK 10394, PAGE 736), IN SAID SECTION 36; THENCE S90°00'00"E, 104.10 FEET ALONG THE SOUTH LINE OF SAID PARCEL 'K' TO THE SW CORNER OF PARCEL 'L' AS RECORDED IN BOOK 10928, PAGE 300; THENCE CONTINUING S90°00'00"E 296.49 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 'L'; THENCE S00°00'00"W, 261.52 FEET TO A POINT; THENCE S40°28'21"E, 462.19 FEET TO A POINT; THENCE S00°00'00"E, 380.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 12.944 ACRES, MORE OR LESS.

Parcel "C" hereby rezoned to a Limited "R1-60" One-Family Low-Density Residential District:

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE, A PLATTED STREET; THENCE S89°57'13"W, 100.00 FEET ALONG SAID NORTH R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W, 615.10 FEET ALONG SAID R.O.W. LINE TO A POINT; THENCE N00°00'00"E, 380.47 FEET TO A POINT; THENCE N40°28'21"W, 462.19 FEET TO A POINT; THENCE N00°00'00"E, 261.52 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'L' (RECORDED IN BOOK 10928, BOOK 300), IN SAID SECTION 36; THENCE S90°00'00"W, 308.28 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF PARCEL 'K' (RECORDED IN BOOK 10394, PAGE 736) IN SAID SECTION 36; THENCE CONTINUING S90°00'00"E, 103.44 FEET ALONG THE SOUTH LINE OF SAID PARCEL 'K' TO A POINT; THENCE N00°00'00"E, 175.84 FEET TO A POINT; THENCE S90°00'00"E, 103.32 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 'L'; THENCE CONTINUING S90°00'00"E, 3082.8 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 'L'; THENCE N00°00'00"W, 128.48 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 'L'; THENCE S90°00'00"E, 811.50 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S18°12'23"W, 394.90 FEET TO A POINT; THENCE S85°51'37"W, 203.72 FEET TO A POINT; THENCE S00°00'00"E, 121.80 FEET TO A POINT; THENCE S40°00'00"E, 183.90 FEET TO A POINT; THENCE S70°00'00"E, 424.12 FEET TO A POINT ON THE EAST LINE OF SAID NW 1/4; THENCE S00°07'13"E,

399.75 FEET ALONG SAID EAST LINE TO A POINT; THENCE S44°55'00"W, 141.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 21.947 ACRES, MORE OR LESS.

Parcel "D" hereby rezoned to a Limited "R1-80" One Family Residential District:

PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 544.75 FEET ALONG THE EAST LINE OF SAID NW 1/4 TO THE POINT OF BEGINNING; THENCE N70°00'00"W, 424.12 FEET TO A POINT; THENCE N40°00'00"W, 183.90 FEET TO A POINT; THENCE N00°00'00"E, 121.80 FEET TO A POINT; THENCE N85°51'37"E, 203.72 FEET TO A POINT; THENCE N18°12'23"E, 394.90 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'L' (RECORDED IN BOOK 10928, PAGE 300), IN SECTION 36; THENCE S90°00'00"E 188.50 FEET ALONG SAID SOUTH LINE TO A POINT ON THE EAST LINE OF SAID NW 1/4; THENCE S00°07'13"E 797.57 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 5.882 ACRES, MORE OR LESS.

Parcels "A", "B", "C" and "D" described above are hereinafter collectively referred to as the "Property".

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 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:

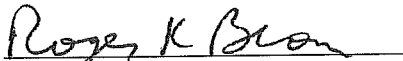
- A. A tree survey of all trees over 6" in caliper and a tree protection plan and shall be submitted as part of any Preliminary Plat for the Property.
- B. There shall be no removal of vegetation from the anticipated conservation easement areas and no removal of any vegetation on the Property until a grading plan is approved as part of a Preliminary Plat.
- C. Each single-family dwelling unit on the Property shall have an attached two-car garage and basement.
- D. Any single-family dwelling on the portions of the Property outside the "R1-80" zoned area shall have a minimum finished interior area, exclusive of basement and garage, as follows:
 1. Single-story (ranch) 1,200 square feet.
 2. Two-story 1,400 square feet.
- E. Any single family dwelling on the portions of the Property rezoned to the "R1-80" District shall have a minimum finished interior area, exclusive of basement and garage, as follows:

1. Single-story (ranch) 1,500 square feet, excluding basements.
 2. Two-story 1,700 square feet, excluding basements.
- F. At least 50% of any single family dwellings constructed or placed upon the Property shall have either: i) masonry (stone or brick) covering one-third to one-half of the square footage of the front elevation exclusive of windows and doors; or, ii) a 60 square foot porch.
- G. The front elevation of each single-family dwelling constructed or placed on the Property must contain either: i) Shutters on each side of each window; or, ii) window trim not less than 4" in width.
- H. The exterior of each single-family dwelling constructed or placed on the Property must be of masonry (brick or stone) and/or vinyl, cedar, Masonite, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
- I. The roof on any single family dwelling constructed or placed on the Property shall be of architectural type shingles or cedar shakes.
- J. All fencing hereafter constructed or placed on the Property shall conform to the following requirements:
1. Black vinyl-clad chain link is the only fencing material permitted, except as specifically provided below.
 2. The maximum height of fencing allowed in a side or rear yard is five-feet (5').
 3. Fencing is prohibited within any front yard and within access easements to detention basins or trails.
 4. If fencing is placed in an easement that prohibits access, the City may remove the fence to gain access. Any replacement of the fence shall be the responsibility of the homeowner.
 5. Wood privacy screens up to six-feet (6') in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.
 6. All other fencing or screening not prohibited by the Zoning Ordinance is subject to the review and approval of the Des Moines Community Development Director for compatibility with the overall design and appearance of the neighborhood in which it is located.
- K. Any development of the property, including erosion control, shall be undertaken and maintained in conformance with the applicable standards imposed by the Environmental Protection Agency and the Iowa Department of Natural Resources.
- L. The maximum residential density of any subdivision within Parcel "B" described above is 12 units per acre. No platted lot within Parcel "B" may be split or divided without the prior written approval of the Des Moines Community Development Director.
- M. All single-family residential lots within Parcels "A", "B" and "C" shall have a minimum lot width of 65 feet.
- N. Any subdivision plat for the Property shall be in substantial conformance with the zoning concept plan submitted by Jerry's Homes, Inc., as part of its application for the rezoning of the Property.

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 a certified copy of the Rezoning Ordinance Acceptance, 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:

A handwritten signature in cursive script, appearing to read "Roger K. Brown", is written over a horizontal line.

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\WORK\REZONING\Tobis.doc

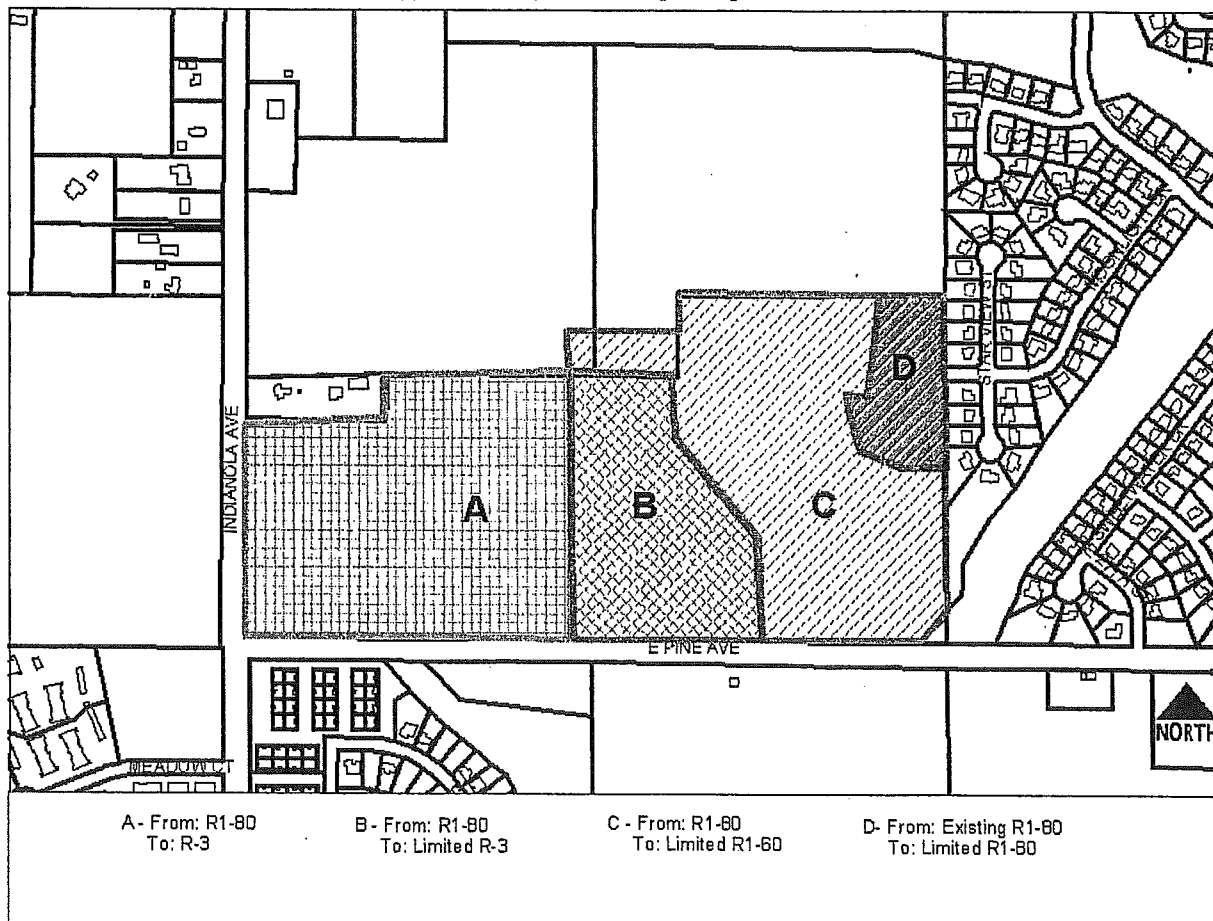
412

Request from Jerry's Homes (purchaser) represented by Ron Grubb to rezone property located in the 2200 block of East Pine Avenue. The subject property is owned by the Michael Tobis Trust.				File # ZON2006-00031	
Description of Action		Rezone property from "R1-80" One-Family Residential District to "R-3" Multiple-Family Residential District, Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density District, and Limited "R1-80" One-Family Residential District, to allow for future single-family detached, single-family semi-detached and townhome development.			
2020 Community Character Plan		Low-Density Residential, Low/Medium-Density Residential, Medium-Density Residential, Park/Open Space – Public, Park/Open Space – Private, Public/Semi-Public, Neighborhood Activity Node, Bike Trail.			
Horizon 2025 Transportation Plan		Indianola Avenue from Army Post Road to Highway 65/69 widen from 2 lanes undivided to 3 lanes undivided.			
Current Zoning District		"R1-80" One-Family Residential District.			
Proposed Zoning District		"R-3" Multiple-Family Residential District, Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density District, and Limited "R1-80" One-Family Residential District.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Inside Area					
Outside Area		4	39	0	>15%
Plan and Zoning Commission Action	Approval	11-3	Required 6/7 Vote of the City Council	Yes	X
	Denial			No	

Ronald Grubb - Indianola Avenue and Pine Avenue

ZON2006-00031

Applicant's Proposed Zoning Changes



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: Michael Tobis 2005 Trust under Agreement dated February 1, 2005;
Tom Tobis Revocable Family Trust under Agreement dated November 2,
1992; and, Jerry's Homes, Inc.

Grantee's Name: City of Des Moines, Iowa

Legal Description: Parcels "A", "B", "C" and "D" described below (hereinafter collectively referred
to as the "Property"):

Parcel "A" to be rezoned to a Limited "R-3" Multiple Family Residential District (up to 17 units
per acre):

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE
24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W,
45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE,
A PLATTED STREET; THENCE S89°57'13"W, 1414.44 FEET ALONG SAID NORTH
R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W,
1181.69 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INDIANOLA
AVENUE, A PLATTED STREET; THENCE N00°13'10"W, 822.33 FEET ALONG SAID
EAST R.O.W. LINE TO A POINT; THENCE S89°28'59"E, 519.69 FEET TO A POINT;
THENCE N00°14'24"W, 177.47 FEET TO A POINT ON THE SOUTH LINE OF PARCEL
'K' (RECORDED IN BOOK 10394, PAGE 736), IN SAID SECTION 36 ; THENCE
N90°00'00"E, 665.91 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE
S00°00'00"W, 994.15 FEET TO THE POINT OF BEGINNING AND CONTAINING
24.937 ACRES, MORE OR LESS.

Parcel "B" to be rezoned to a Limited "R-3" Multiple Family Residential District (limited to a
maximum of 12 units per acre):

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE
24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE, A PLATTED STREET; THENCE S89°57'13"W, 715.10 FEET ALONG SAID NORTH R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W, 699.34 FEET ALONG SAID NORTH R.O.W. LINE TO A POINT; THENCE N00°00'00"E, 994.15 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'K' (RECORDED IN BOOK 10394, PAGE 736), IN SAID SECTION 36; THENCE S90°00'00"E, 104.10 FEET ALONG THE SOUTH LINE OF SAID PARCEL 'K' TO THE SW CORNER OF PARCEL 'L' AS RECORDED IN BOOK 10928, PAGE 300; THENCE CONTINUING S90°00'00"E 296.49 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 'L'; THENCE S00°00'00"W, 261.52 FEET TO A POINT; THENCE S40°28'21"E, 462.19 FEET TO A POINT; THENCE S00°00'00"E, 380.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 12.944 ACRES, MORE OR LESS.

Parcel "C" to be rezoned to a Limited "R1-60" One-Family Low-Density Residential District:

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 45.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PINE AVENUE, A PLATTED STREET; THENCE S89°57'13"W, 100.00 FEET ALONG SAID NORTH R.O.W. LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°57'13"W, 615.10 FEET ALONG SAID R.O.W. LINE TO A POINT; THENCE N00°00'00"E, 380.47 FEET TO A POINT; THENCE N40°28'21"W, 462.19 FEET TO A POINT; THENCE N00°00'00"E, 261.52 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'L' (RECORDED IN BOOK 10928, BOOK 300), IN SAID SECTION 36; THENCE S90°00'00"W, 308.28 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF PARCEL 'K' (RECORDED IN BOOK 10394, PAGE 736) IN SAID SECTION 36; THENCE CONTINUING S90°00'00"E, 103.44 FEET ALONG THE SOUTH LINE OF SAID PARCEL 'K' TO A POINT; THENCE N00°00'00"E, 175.84 FEET TO A POINT; THENCE S90°00'00"E, 103.32 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 'L'; THENCE CONTINUING S90°00'00"E, 3082.8 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 'L'; THENCE N00°00'00"W, 128.48 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 'L'; THENCE S90°00'00"E, 811.50 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S18°12'23"W, 394.90 FEET TO A POINT; THENCE S85°51'37"W, 203.72 FEET TO A POINT; THENCE S00°00'00"E, 121.80 FEET TO A POINT; THENCE S40°00'00"E, 183.90 FEET TO A POINT; THENCE S70°00'00"E, 424.12 FEET TO A POINT ON THE EAST LINE OF SAID NW 1/4; THENCE S00°07'13"E, 399.75 FEET ALONG SAID EAST LINE TO A POINT; THENCE S44°55'00"W, 141.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 21.947 ACRES, MORE OR LESS.

Parcel "D" to be rezoned to a Limited "R1-80" One Family Residential District:

PARCEL OF LAND IN THE NW 1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24

WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 36; THENCE N00°07'13"W, 544.75 FEET ALONG THE EAST LINE OF SAID NW 1/4 TO THE POINT OF BEGINNING; THENCE N70°00'00"W, 424.12 FEET TO A POINT; THENCE N40°00'00"W, 183.90 FEET TO A POINT; THENCE N00°00'00"E, 121.80 FEET TO A POINT; THENCE N85°51'37"E, 203.72 FEET TO A POINT; THENCE N18°12'23"E, 394.90 FEET TO A POINT ON THE SOUTH LINE OF PARCEL 'L' (RECORDED IN BOOK 10928, PAGE 300), IN SECTION 36; THENCE S90°00'00"E 188.50 FEET ALONG SAID SOUTH LINE TO A POINT ON THE EAST LINE OF SAID NW 1/4; THENCE S00°07'13"E 797.57 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 5.882 ACRES, MORE OR LESS.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

(1) That the Michael Tobis 2005 Trust under Agreement dated February 1, 2005, and the Tom Tobis Revocable Family Trust under Agreement dated November 2, 1992, as titleholders and tenants in common, and Jerry's Homes, Inc., as contract purchaser, are the sole owners of the Property in the vicinity of the 2200 block of East Pine Avenue, more specifically described above.

(2) That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District, Limited "R1-60" One-Family Low-Density Residential District and Limited "R1-80" One-Family Residential District classifications as provided above, 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. A tree survey of all trees over 6" in caliper and a tree protection plan and shall be submitted as part of any Preliminary Plat for the Property.
- B. There shall be no removal of vegetation from the anticipated conservation easement areas and no removal of any vegetation on the Property until a grading plan is approved as part of a Preliminary Plat.
- C. Each single-family dwelling unit on the Property shall have an attached two-car garage and basement.
- D. Any single-family dwelling on the portions of the Property outside the "R1-80" zoned area shall have a minimum finished interior area, exclusive of basement and garage, as follows:
 - 1. Single-story (ranch) 1,200 square feet.
 - 2. Two-story 1,400 square feet.

- E. Any single family dwelling on the portions of the Property rezoned to the "R1-80" District shall have a minimum finished interior area, exclusive of basement and garage, as follows:
 - 1. Single-story (ranch) 1,500 square feet, excluding basements.
 - 2. Two-story 1,700 square feet, excluding basements.
- F. At least 50% of any single family dwellings constructed or placed upon the Property shall have either: i) masonry (stone or brick) covering one-third to one-half of the square footage of the front elevation exclusive of windows and doors; or, ii) a 60 square foot porch.
- G. The front elevation of each single-family dwelling constructed or placed on the Property must contain either: i) Shutters on each side of each window; or, ii) window trim not less than 4" in width.
- H. The exterior of each single-family dwelling constructed or placed on the Property must be of masonry (brick or stone) and/or vinyl, cedar, Masonite, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
- I. The roof on any single family dwelling constructed or placed on the Property shall be of architectural type shingles or cedar shakes.
- J. All fencing hereafter constructed or placed on the Property shall conform to the following requirements:
 - 1. Black vinyl-clad chain link is the only fencing material permitted, except as specifically provided below.
 - 2. The maximum height of fencing allowed in a side or rear yard is five-feet (5').
 - 3. Fencing is prohibited within any front yard and within access easements to detention basins or trails.
 - 4. If fencing is placed in an easement that prohibits access, the City may remove the fence to gain access. Any replacement of the fence shall be the responsibility of the homeowner.
 - 5. Wood privacy screens up to six-feet (6') in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.
 - 6. All other fencing or screening not prohibited by the Zoning Ordinance is subject to the review and approval of the Des Moines Community Development Director for compatibility with the overall design and appearance of the neighborhood in which it is located.
- K. Any development of the property, including erosion control, shall be undertaken and maintained in conformance with the applicable standards imposed by the Environmental Protection Agency and the Iowa Department of Natural Resources.
- L. The maximum residential density of any subdivision within Parcel "B" described above is 12 units per acre. No platted lot within Parcel "B" may be split or divided without the prior written approval of the Des Moines Community Development Director.
- M. All single-family residential lots within Parcels "A", "B" and "C" shall have a minimum lot width of 65 feet.

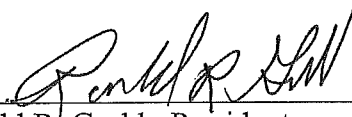
N. Any subdivision plat for the Property shall be in substantial conformance with the zoning concept plan submitted by Jerry's Homes, Inc., as part of its application for the rezoning of the Property.

(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 "R-3", Limited "R1-60", and Limited "R1-80" as provided 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.

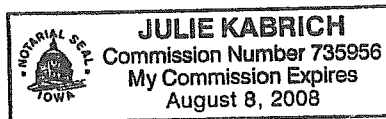
The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

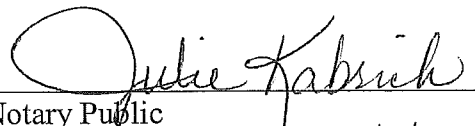
Jerry's Homes, Inc.

By: 
Ronald R. Grubb, President

STATE OF IOWA)
) ss:
COUNTY OF Polk)

This instrument was acknowledged before me on December 26, 2006, by **Ronald R. Grubb** as the President of **Jerry's Homes, Inc.**, an Iowa corporation on behalf of whom the instrument was executed.




Notary Public
My commission expires: 8/8/08

41C

Michael Tobis 2005 Trust,
under Agreement dated February 1, 2005

By: _____
Michael Tobis, Trustee

STATE OF IOWA)
) ss:
COUNTY OF _____)

This instrument was acknowledged before me on _____, 200__, by **Michael Tobis** as the
Trustee of the **Michael Tobis 2005 Trust** under Agreement dated February 1, 2005, on behalf of
whom the instrument was executed.

Notary Public
My commission expires: _____

Tom Tobis Revocable Family Trust
under Agreement dated November 2, 1992

By: _____
Tom Tobis, Trustee

By: _____
Joan Tobis, Trustee

STATE OF IOWA)
) ss:
COUNTY OF _____)

This instrument was acknowledged before me on _____, 200__, by **Tom Tobis** and **Joan Tobis** as the Trustees of the **Tom Tobis Revocable Family Trust** under Agreement dated November 2, 1992, on behalf of whom the instrument was executed.

Notary Public
My commission expires: _____