

550

Date..... April 24, 2006

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 3725 E. University Avenue from the "C-1" Neighborhood Retail Commercial District and the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification",

presented.

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

FORM APPROVED:

(First of three required readings)

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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

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.

MOTION CARRIED

APPROVED

.....Mayor

City Clerk

SSC

Prepared by: Roger K. Brown, Assist City Atty, 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
Title of Document: City of Des Moines, Ordinance No. _____
Legal Description: See below on this page.

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 3725 E. University Avenue from the "C-1" Neighborhood Retail Commercial District and the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented 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 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 3725 E. University Avenue, more fully described as follows, from the "C-1" Neighborhood Retail Commercial District and the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification:

Lot 5, Fairground Estates, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein 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:

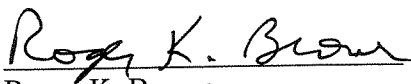
The following uses of land and structures shall not be permitted upon the Property:

- 1) Adult entertainment businesses;
- 2) Package goods store for the sale of alcoholic beverages;
- 3) Taverns and night clubs;
- 4) Off-premises advertising signs;
- 5) Vehicle display lot, including but not limited to used car sales lot;
- 6) Pawn shop; and,
- 7) Check cashing and title loan business.

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 the vicinity map, this ordinance, proof of publication of this ordinance, and the Acceptance of Rezoning Ordinance signed by all owners of the Property, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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SSC

Prepared by: Roger K. Brown, Assistant City Atty, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 515/283-4130

Re: Lot 5, Fairground Estates, 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 **BKM Renovators, L.C.**, hereby states, warrants and agrees as follows:

(1) That BKM Renovators, L.C., an Iowa limited liability company, is the sole owner of the Property in the vicinity of 3725 E. University Avenue, more specifically described above.

(2) That in the event the City of Des Moines acts to rezone the Property from the "C-1" Neighborhood Retail Commercial District and the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented 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:

The following uses of land and structures shall not be permitted upon the Property:

- 1) Adult entertainment businesses;
- 2) Package goods store for the sale of alcoholic beverages;
- 3) Taverns and night clubs;
- 4) Off-premises advertising signs;
- 5) Vehicle display lot, including but not limited to used car sales lot;
- 6) Pawn shop; and,
- 7) Check cashing and title loan business.

(3) That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "C-2", 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.

BKM Renovators, L.C.

By: Randal Meiners
Randal L. Meiners, Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this ____ day of April, 2006, before me, the undersigned, a Notary Public in and for Polk County, Iowa, personally appeared **Randal L. Meiners**, to me personally known, who, being by me duly sworn did say that he is the Manager of BKM Renovators, L.C., and Iowa limited liability company; that said instrument was signed on behalf of said company by authority of its members; and that he acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, and by it and by him voluntarily executed.

J. Wood
Notary Public
My commission expires: 2/3/09

2/3/09