

★ **Roll Call Number**

Agenda Item Number

51C

Date October 8, 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 2800 E. University Avenue from the "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial 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				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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

SIC

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 2800 E. University Avenue from the "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial 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 2800 E. University Avenue, more fully described as follows, from the "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial District, to a Limited "C-2" General Retail and Highway Oriented Commercial District classification:

(Except an irregular piece beginning at the SW corner of Lot 9; thence East 29 feet; thence Northwesterly to a point 27 Feet North of the SW corner of Lot 11; thence South to the Point of Beginning) Lots 9, 10, 11 and 12, in Block 9, Fairview, 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").

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:

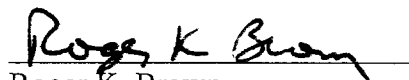
- A. The following uses of structures and land shall be prohibited upon the Property:
- 1) Adult entertainment businesses;
 - 2) Tavern and/or nightclub;

- 3) Off-premises advertising; and,
 - 4) Sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.
- B. The north 50 feet of the Property shall not be used for any use except open space in conjunction with adjoining commercial use or a single-family dwelling.
- C. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar small vehicles permitted upon the Property shall be in conformance with a Site Plan approved under the adopted procedures and design guidelines for a vehicle display lot.

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

Sec. 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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Request from Wayne Larson (lessee) to rezone property located at 2800 East University Avenue. The subject property is owned by J.S. Baker Properties, LLC.			File # ZON2007-00131		
Description of Action	Rezone property from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow use for a vehicle display lot for ATVs, mopeds, scooters, and related vehicles.				
2020 Community Character Plan	Low-Density Residential & Commercial: Auto-Oriented Small-Scale Strip Development.				
Horizon 2025 Transportation Plan	No Planned Improvements.				
Current Zoning District	"R1-60" One-Family Low-Density Residential District & "C-2" General Retail and Highway-Oriented Commercial District.				
Proposed Zoning District	Limited "C-2" General Retail and Highway-Oriented Commercial District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	2	0	0	<20%	
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Wayne Larsen - 2800 E University Avenue

ZON2007-00131



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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: J. S. Baker Properties, L.L.C.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

(Except an irregular piece beginning at the SW corner of Lot 9; thence East 29 feet; thence Northwesterly to a point 27 Feet North of the SW corner of Lot 11; thence South to the Point of Beginning) Lots 9, 10, 11 and 12, in Block 9, Fairview, 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 J. S. Baker Properties, L.L.C., an Iowa limited liability company, is the sole owners of the Property in the vicinity of 2800 E. University Avenue, more specifically described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial 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:
 - A. The following uses of structures and land shall be prohibited upon the Property:
 - 1) Adult entertainment businesses;
 - 2) Tavern and/or nightclub;

- 3) Off-premises advertising; and,
- 4) Sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.

B. The north 50 feet of the Property shall not be used for any use except open space in conjunction with adjoining commercial use or a single-family dwelling.

C. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar small vehicles permitted upon the Property shall be in conformance with a Site Plan approved under the adopted procedures and design guidelines for a vehicle display lot.

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", 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.

J. S. Baker Properties, L.L.C.,
an Iowa limited liability company

By: _____
Jeffrey S. Baker, Member

State of Iowa)
County of Polk) ss:

This instrument was acknowledged before me on _____, 2007, by **Jeffrey S. Baker** as the Member of **J. S. Baker Properties, L.L.C.**, an Iowa limited liability company, on behalf of whom the instrument was executed.

Notary Public in the State of Iowa
My commission expires: _____