

★ **Roll Call Number**

Agenda Item Number

47C

Date October 22, 2007

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 between East Payton Avenue and East Army Post Road, from Indianola Ave through the 2900 Block of East Payton Avenue; and between East Payton Avenue and East Porter Avenue/East Caulder Avenue from the 2700 Block through the 2900 Block, from the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District, a Limited R-3" Multiple-Family Residential District, and a Limited "R1-70" One-Family Low-Density Residential 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				
VLISSIS				
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

47c

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 between East Payton Avenue and East Army Post Road, from Indianola Ave through the 2900 Block of East Payton Avenue; and between East Payton Avenue and East Porter Avenue/East Caulder Avenue from the 2700 Block through the 2900 Block, from the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District, a Limited R-3" Multiple-Family Residential District, and a Limited "R1-70" One-Family Low-Density Residential 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 the land between East Payton Avenue and East Army Post Road, from Indianola Ave through the 2900 Block of East Payton Avenue; and the land between East Payton Avenue and East Porter Avenue/East Caulder Avenue as more fully described below, from the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District, a Limited R-3" Multiple-Family Residential District, and a Limited "R1-70" One-Family Low-Density Residential District classification, as follows:

AREA "A" – From the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District (containing approximately 29.34 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 25; THENCE NORTH 0°02'35" WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1321.87 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°33'09" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 509.74 FEET; THENCE SOUTH 0°02'35" EAST, 463.02 FEET; THENCE SOUTH 89°33'09" EAST, 200.01 FEET; THENCE NORTH 0°02'35" WEST, 463.02 FEET TO A POINT ON SAID NORTH LINE; THENCE SOUTH 89°33'09" EAST ALONG SAID NORTH LINE, 108.32 FEET;

THENCE SOUTH 0°00'03" EAST, 132.31 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.29 FEET AND WHOSE CHORD BEARS SOUTH 20°14'34" EAST, 345.99 FEET; THENCE SOUTH 40°29'06" EAST, 211.92 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.34 FEET AND WHOSE CHORD BEARS SOUTH 20°14'24" EAST, 346.03 FEET; THENCE SOUTH 0°00'17" WEST, 379.85 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 89°39'27" WEST ALONG SAID SOUTH LINE, 1194.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 29.45 ACRES.

EXCEPT THOSE PARCELS CONVEYED TO THE CITY OF DES MOINES IN WARRANTY DEEDS RECORDED IN BOOK 7611, PAGES 662 AND 666 AND DESCRIBED AS FOLLOWS:

A PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., POLK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.; THENCE SOUTH 89° (DEGREES) 36' (MINUTES) 44" (SECONDS) EAST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 247.91 FEET; THENCE NORTH 0°00'00" EAST, 66.10 FEET; THENCE NORTH 50°22'10" WEST, 263.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 50°22'09" WEST, 15.58 FEET; THENCE NORTH 0°00'22" EAST, 302.62 FEET; THENCE SOUTH 89°13'49" EAST, 12.00 FEET; THENCE SOUTH 0°00'22" WEST, 312.55 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 3,697 SQUARE FEET;

AND, PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, LESS 5.4 ACRES FOR ROAD (EXCEPT THE EAST 200 FEET OF THE WEST 710 FEET OF THE NORTH 463 FEET), ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.; THENCE SOUTH 89° (DEGREES) 36' (MINUTES) 44" (SECONDS) EAST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 247.91 FEET; THENCE NORTH 0°00'00" EAST, 66.10 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50°22'10" WEST, 23.91 FEET; THENCE SOUTH 89°12'56" EAST, 93.63 FEET; THENCE SOUTH 0°47'05" WEST, 15.00 FEET; THENCE NORTH 89°12'56" WEST, 75.00 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 1,265 SQUARE FEET.

AREA "B – From the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District (containing approximately 4.25 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5; THENCE SOUTH 89°39'27" EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1194.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0°00'17" EAST, 379.85 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 185.00 FEET AND WHOSE CHORD BEARS NORTH 10°35'41" WEST, 183.94 FEET; THENCE NORTH 68°48'21" EAST, 66.83 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 184.95 FEET AND WHOSE CHORD BEARS NORTH 79°24'09" EAST, 183.89 FEET; THENCE NORTH 89°59'57" EAST, 90.77 FEET; THENCE SOUTH 0°00'17" WEST, 620.43 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 89°39' 27" WEST ALONG SAID SOUTH LINE AND ALONG SAID SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 300.01 FEET TO THE POINT OF BEGINNING.

AREA "C" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 9.48 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°42'37" EAST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 178.62 FEET; THENCE SOUTH 0°00'17" WEST, 699.18 FEET; THENCE SOUTH 89°59'57" WEST, 90.77 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 184.95 FEET AND WHOSE CHORD BEARS SOUTH 79°24'09" WEST, 183.89 FEET; THENCE SOUTH 68°48'21" WEST, 66.83 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 168.34 FEET AND WHOSE CHORD BEARS NORTH 30°50'22" WEST, 167.55 FEET; THENCE NORTH 40°29'06" WEST, 211.92 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.29 FEET AND WHOSE CHORD BEARS NORTH 20°14'34" WEST, 345.99 FEET; THENCE NORTH 0°00'03"

WEST, 132.31 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°33'09" EAST ALONG SAID NORTH LINE, 498.49 FEET TO THE POINT OF BEGINNING.

AREA "D" – From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family Low-Density Residential District (containing approximately 27.64 acres):

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°44'00" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 588.74 FEET; THENCE SOUTH 0°00'03" EAST, 690.63 FEET; THENCE SOUTH 89°59'57" WEST, 1732.77 FEET; THENCE NORTH 0°00'17" EAST, 699.18 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°42'37" EAST ALONG SAID NORTH LINE, 1143.98 FEET TO THE POINT OF BEGINNING.

AREA "E" – From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 24.34 acres):

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 25; THENCE NORTH 89°39'27" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1140.37 FEET; THENCE NORTH 0°00'17" EAST, 620.43 FEET; THENCE NORTH 89°59'57" EAST, 1732.77 FEET; THENCE SOUTH 0°00'03" EAST, 61.54 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS SOUTH 8°30'30" WEST, 236.75 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS SOUTH 8°30'30" WEST, 236.75 FEET; THENCE SOUTH 0°00'03" EAST, 100.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE NORTH 89°43'10" WEST ALONG SAID SOUTH LINE, 522.43 FEET TO THE POINT OF BEGINNING.

AREA "F" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 30.35 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25,

TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 25; THENCE NORTH 89°43'10" WEST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 2113.30 FEET; THENCE NORTH 0°00'03" WEST, 100.00 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS NORTH 8°30'30" EAST, 236.75 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS NORTH 8°30'30" EAST, 236.75 FEET; THENCE NORTH 0°00'03" WEST, 61.54 FEET; THENCE NORTH 89°59'57" EAST, 2045.47 FEET TO A POINT ON THE EAST LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 0°12'05" WEST ALONG SAID EAST LINE, 640.21 FEET TO THE POINT OF BEGINNING.

AREA "G" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 32.23 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 0°12'05" WEST ALONG THE EAST LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 681.08 FEET; THENCE SOUTH 89°59'57" WEST, 2045.47 FEET; THENCE NORTH 0°00'03" WEST, 690.63 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 89°44'00" EAST ALONG SAID NORTH LINE AND ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 2047.90 FEET TO THE POINT OF BEGINNING.

AREA "H" - From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family, Low-Density Residential District (containing approximately 5.83 acres):

LOT 2 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AREA "I" - From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family Low-Density Residential District (containing approximately 40.60 acres):

LOT 3 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, ALL IN TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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:

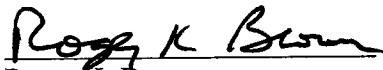
- A. Any development of Areas "E" and "F" (rezoned to the "R-3" District) shall be limited to a maximum density of 12 units per net acre through the subdivision and site plan approval processes.
- B. Any development of Area "C" (rezoned to the "R-3" District) shall be limited to a maximum density of 17 units per acre through the subdivision and site plan approval processes.
- C. Trails shall be provided as shown on the submitted conceptual development plan and in accordance with the Easter Lake New Town Plan as part of any subdivision of the Property.
- D. The Property shall be developed in substantial conformance with the submitted conceptual development plan.
- E. The extension of SE 29th Court, from its terminus at the north end of the Property to East Army Post Road, shall be provided through the subdivision approval process.
- F. 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.
- G. No trees over 6" in caliper shall be removed from the Property without the prior written consent of the City Forester until a grading plan is approved as part of a Preliminary Plat.
- H. Each single-family dwelling unit constructed or placed upon the Property shall conform with the following minimum standards:
 - 1) Be served by a private garage, either attached or detached.
 - 2) Have a minimum finished floor area, excluding basements, as follows:
 - (a) Single-story (ranch) 1,200 square feet.
 - (b) Two-story 1,400 square feet.
 - 3) The front elevation must contain one of the following:
 - (a) A front porch of not less than 60 square feet; or
 - (b) Stone or brick masonry siding equal to a minimum of 1/3 of the 1st floor facade.
 - 4) The front elevation must contain one of the following:
 - (a) Shutters on each side of each window; or
 - (b) Window trim not less than 4" in width.

- (5) The exterior of must be of masonry (brick or stone) and/or vinyl, cedar, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
 - (6) The roof shall be of architectural type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
- I. Any fencing constructed or placed upon the Property shall conform with the following minimum standards:
- (1) Black vinyl-clad chain link is the only fencing material permitted.
 - (2) The maximum height of fencing allowed in a side or rear yard is five-feet.
 - (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 blocks access to the easement area, the City may remove the fence to gain access. Replacement of the fence is the responsibility of the homeowner.
 - (5) Wood privacy screens up to six-feet 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 is subject to the review and approval of the Planning Director and/or the Zoning Board of Adjustment.
- J. The builder owner is responsible for lot maintenance, erosion control and adhering to all EPA and DNR standards. Erosion control and drainage plans for the entire development are to be determined through the subdivision approval process.
- K. A unified landscaping theme for the overall development of Areas "A" and "B" (rezoned to the "C-1" District) shall be prepared by the owners of the Property and approved by the Plan and Zoning Commission prior to approval of any site plan for the Property. No site plan shall be approved for the Property which does not conform to the approved unified landscaping theme.
- L. A unified architectural theme for the overall development of Areas "A" and "B" (rezoned to the "C-1" District) shall be prepared by the owners of the Property and approved by the Plan and Zoning Commission prior to approval of any site plan for the Property. No site plan shall be approved for the Property, which does not conform to the approved unified architectural theme. The unified architectural theme shall include a requirement for a predominance of quality materials such as brick, stone, and/or masonry block.
- M. The Property shall not be divided by a plat of survey without the City's prior approval. All subdivision of the Property shall be subject to review and approval by the City through the subdivision plat approval process.
- N. Any residential development within Areas "A" and "B" (rezoned to the "C-1" District) shall conform with the density standards applicable in the "R-3" District Multiple Family Residential District.

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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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: Lemar Koethe
Grantee's Name: City of Des Moines, Iowa
Legal Description: See Exhibit "A" at page ____.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That I am the sole owner of the land between East Payton Avenue and East Army Post Road, from Indianola Ave through the 2900 Block of East Payton Avenue; and the land between East Payton Avenue and East Porter Avenue/East Caulder Avenue from the 2700 Block through the 2900 Block, all of which is more specifically described in Exhibit "A" attached hereto, and is hereinafter collectively referred to as the Property.
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 "C-1" Neighborhood Retail Commercial District, a Limited "R-3" Multiple-Family Residential District, and a Limited "R1-70" One-Family Low-Density Residential District classification, I 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. Any development of Areas "E" and "F" (rezoned to the "R-3" District) shall be limited to a maximum density of 12 units per net acre through the subdivision and site plan approval processes.
 - B. Any development of Area "C" (rezoned to the "R-3" District) shall be limited to a maximum density of 17 units per acre through the subdivision and site plan approval processes.
 - C. Trails shall be provided as shown on the submitted conceptual development plan and

in accordance with the Easter Lake New Town Plan as part of any subdivision of the Property.

- D. The Property shall be developed in substantial conformance with the submitted conceptual development plan.
- E. The extension of SE 29th Court, from its terminus at the north end of the Property to East Army Post Road, shall be provided through the subdivision approval process.
- F. 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.
- G. No trees over 6" in caliper shall be removed from the Property without the prior written consent of the City Forester until a grading plan is approved as part of a Preliminary Plat.
- H. Each single-family dwelling unit constructed or placed upon the Property shall conform with the following minimum standards:
 - 1) Be served by a private garage, either attached or detached.
 - 2) Have a minimum finished floor area, excluding basements, as follows:
 - (a) Single-story (ranch) 1,200 square feet.
 - (b) Two-story 1,400 square feet.
 - 3) The front elevation must contain one of the following:
 - (a) A front porch of not less than 60 square feet; or
 - (b) Stone or brick masonry siding equal to a minimum of 1/3 of the 1st floor facade.
 - 4) The front elevation must contain one of the following:
 - (a) Shutters on each side of each window; or
 - (b) Window trim not less than 4" in width.
 - (5) The exterior of must be of masonry (brick or stone) and/or vinyl, cedar, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
 - (6) The roof shall be of architectural type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
- I. Any fencing constructed or placed upon the Property shall conform with the following minimum standards:
 - (1) Black vinyl-clad chain link is the only fencing material permitted.
 - (2) The maximum height of fencing allowed in a side or rear yard is five-feet.
 - (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 blocks access to the easement area, the City may remove the fence to gain access. Replacement of the fence is the responsibility of the homeowner.
 - (5) Wood privacy screens up to six-feet 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 is subject to the review and approval of the Planning Director and/or the Zoning Board of Adjustment.
 - J. The builder owner is responsible for lot maintenance, erosion control and adhering to all EPA and DNR standards. Erosion control and drainage plans for the entire development are to be determined through the subdivision approval process.
 - K. A unified landscaping theme for the overall development of Areas "A" and "B" (rezoned to the "C-1" District) shall be prepared by the owners of the Property and approved by the Plan and Zoning Commission prior to approval of any site plan for the Property. No site plan shall be approved for the Property which does not conform to the approved unified landscaping theme.
 - L. A unified architectural theme for the overall development of Areas "A" and "B" (rezoned to the "C-1" District) shall be prepared by the owners of the Property and approved by the Plan and Zoning Commission prior to approval of any site plan for the Property. No site plan shall be approved for the Property, which does not conform to the approved unified architectural theme. The unified architectural theme shall include a requirement for a predominance of quality materials such as brick, stone, and/or masonry block.
 - M. The Property shall not be divided by a plat of survey without the City's prior approval. All subdivision of the Property shall be subject to review and approval by the City through the subdivision plat approval process.
 - N. Any residential development within Areas "A" and "B" (rezoned to the "C-1" District) shall conform with the density standards applicable in the "R-3" District Multiple Family Residential District.
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 that identified in Exhibit "A" for each portion thereof, 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.

LeMar Koethe

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on October ____, 2007, by LeMar Koethe.

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

Exhibit "A"
Legal Description of the Property to be rezoned
(LeMar Koethe)

AREA "A" – From the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District (containing approximately 29.34 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 25; THENCE NORTH 0°02'35" WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1321.87 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°33'09" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 509.74 FEET; THENCE SOUTH 0°02'35" EAST, 463.02 FEET; THENCE SOUTH 89°33'09" EAST, 200.01 FEET; THENCE NORTH 0°02'35" WEST, 463.02 FEET TO A POINT ON SAID NORTH LINE; THENCE SOUTH 89°33'09" EAST ALONG SAID NORTH LINE, 108.32 FEET; THENCE SOUTH 0°00'03" EAST, 132.31 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.29 FEET AND WHOSE CHORD BEARS SOUTH 20°14'34" EAST, 345.99 FEET; THENCE SOUTH 40°29'06" EAST, 211.92 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.34 FEET AND WHOSE CHORD BEARS SOUTH 20°14'24" EAST, 346.03 FEET; THENCE SOUTH 0°00'17" WEST, 379.85 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 89°39'27" WEST ALONG SAID SOUTH LINE, 1194.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 29.45 ACRES.

EXCEPT THOSE PARCELS CONVEYED TO THE CITY OF DES MOINES IN WARRANTY DEEDS RECORDED IN BOOK 7611, PAGES 662 AND 666 AND DESCRIBED AS FOLLOWS:

A PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., POLK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.; THENCE SOUTH 89° (DEGREES) 36' (MINUTES) 44" (SECONDS) EAST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 247.91 FEET; THENCE NORTH 0°00'00" EAST, 66.10 FEET; THENCE NORTH 50°22'10" WEST, 263.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 50°22'09" WEST, 15.58 FEET; THENCE NORTH

0°00'22" EAST, 302.62 FEET; THENCE SOUTH 89°13'49" EAST, 12.00 FEET; THENCE SOUTH 0°00'22" WEST, 312.55 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 3,697 SQUARE FEET.

AND

PART OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4, LESS 5.4 ACRES FOR ROAD (EXCEPT THE EAST 200 FEET OF THE WEST 710 FEET OF THE NORTH 463 FEET), ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.; THENCE SOUTH 89° (DEGREES) 36' (MINUTES) 44" (SECONDS) EAST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 247.91 FEET; THENCE NORTH 0°00'00" EAST, 66.10 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50°22'10" WEST, 23.91 FEET; THENCE SOUTH 89°12'56" EAST, 93.63 FEET; THENCE SOUTH 0°47'05" WEST, 15.00 FEET; THENCE NORTH 89°12'56" WEST, 75.00 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 1,265 SQUARE FEET.

AREA "B – From the "R1-80" One-Family Residential District to a Limited "C-1" Neighborhood Retail Commercial District (containing approximately 4.25 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5; THENCE SOUTH 89°39'27" EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1194.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0°00'17" EAST, 379.85 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 185.00 FEET AND WHOSE CHORD BEARS NORTH 10°35'41" WEST, 183.94 FEET; THENCE NORTH 68°48'21" EAST, 66.83 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 184.95 FEET AND WHOSE CHORD BEARS NORTH 79°24'09" EAST, 183.89 FEET; THENCE NORTH 89°59'57" EAST, 90.77 FEET; THENCE SOUTH 0°00'17" WEST, 620.43 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 89°39' 27" WEST ALONG SAID SOUTH LINE AND ALONG SAID SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 300.01 FEET TO THE POINT OF BEGINNING.

AREA "C" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 9.48 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°42'37" EAST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 178.62 FEET; THENCE SOUTH 0°00'17" WEST, 699.18 FEET; THENCE SOUTH 89°59'57" WEST, 90.77 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 184.95 FEET AND WHOSE CHORD BEARS SOUTH 79°24'09" WEST, 183.89 FEET; THENCE SOUTH 68°48'21" WEST, 66.83 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 168.34 FEET AND WHOSE CHORD BEARS NORTH 30°50'22" WEST, 167.55 FEET; THENCE NORTH 40°29'06" WEST, 211.92 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 500.00 FEET, WHOSE ARC LENGTH IS 353.29 FEET AND WHOSE CHORD BEARS NORTH 20°14'34" WEST, 345.99 FEET; THENCE NORTH 0°00'03" WEST, 132.31 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°33'09" EAST ALONG SAID NORTH LINE, 498.49 FEET TO THE POINT OF BEGINNING.

AREA "D" – From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family Low-Density Residential District (containing approximately 27.64 acres):

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°44'00" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 588.74 FEET; THENCE SOUTH 0°00'03" EAST, 690.63 FEET; THENCE SOUTH 89°59'57" WEST, 1732.77 FEET; THENCE NORTH 0°00'17" EAST, 699.18 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH 89°42'37" EAST ALONG SAID NORTH LINE, 1143.98 FEET TO THE POINT OF BEGINNING.

AREA "E" – From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 24.34 acres):

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 25; THENCE NORTH 89°39'27" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1140.37 FEET; THENCE NORTH 0°00'17" EAST, 620.43 FEET; THENCE NORTH 89°59'57" EAST, 1732.77 FEET; THENCE SOUTH 0°00'03" EAST, 61.54 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS SOUTH 8°30'30" WEST, 236.75 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS SOUTH 8°30'30" WEST, 236.75 FEET; THENCE SOUTH 0°00'03" EAST, 100.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE NORTH 89°43'10" WEST ALONG SAID SOUTH LINE, 522.43 FEET TO THE POINT OF BEGINNING.

AREA "F" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 30.35 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 25; THENCE NORTH 89°43'10" WEST ALONG THE SOUTH LINE OF SAID SECTION 25, A DISTANCE OF 2113.30 FEET; THENCE NORTH 0°00'03" WEST, 100.00 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS NORTH 8°30'30" EAST, 236.75 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 800.00 FEET, WHOSE ARC LENGTH IS 237.62 FEET AND WHOSE CHORD BEARS NORTH 8°30'30" EAST, 236.75 FEET; THENCE NORTH 0°00'03" WEST, 61.54 FEET; THENCE NORTH 89°59'57" EAST, 2045.47 FEET TO A POINT ON THE EAST LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 0°12'05" WEST ALONG SAID EAST LINE, 640.21 FEET TO THE POINT OF BEGINNING.

47C

AREA "G" - From the "R1-80" One-Family Residential District to a Limited "R-3" Multiple Family Residential District (containing approximately 32.23 acres):

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 0°12'05" WEST ALONG THE EAST LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 681.08 FEET; THENCE SOUTH 89°59'57" WEST, 2045.47 FEET; THENCE NORTH 0°00'03" WEST, 690.63 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 89°44'00" EAST ALONG SAID NORTH LINE AND ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 2047.90 FEET TO THE POINT OF BEGINNING.

AREA "H" - From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family, Low-Density Residential District (containing approximately 5.83 acres):

LOT 2 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AREA "I" - From the "R1-80" One-Family Residential District to a Limited "R1-70" One-Family Low-Density Residential District (containing approximately 40.60 acres):

LOT 3 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, ALL IN TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA.