



Roll Call Number

Agenda Item Number

35 A

Date August 12, 2013

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 901 Bell Avenue from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification",

presented.

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

FORM APPROVED:

(First of three required readings)

Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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

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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 901 Bell Avenue from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian 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 901 Bell Avenue, more fully described as follows, from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification:

South 42.5 feet of Lots 39 and 40, Bell Place Plat No. 2, an Official Plat, and the West 60 feet of Lot D, Southwest 9th Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

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:

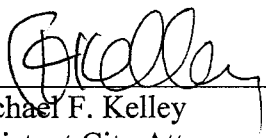
- (1) Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
- (2) Preserve existing shared vehicular driveway access onto Southwest 9th Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.

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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:



Michael F. Kelley
Assistant City Attorney

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Prepared by:	Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
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:	Brace, LLC
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	South 42.5 feet of Lots 39 and 40, Bell Place Plat No. 2, an Official Plat, and the West 60 feet of Lot D, Southwest 9 th Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Brace, LLC, an Iowa limited liability company, is the sole owner of the Property in the vicinity of 901 Bell 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-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification, we agree and accept on behalf of the owner 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:

- (1) Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
- (2) Preserve existing shared vehicular driveway access onto Southwest 9th Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.

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.

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4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited NPC Neighborhood Pedestrian Commercial District classification, 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.

BRACE, LLC
an Iowa limited liability company

By: Alex Langstraat
Alex Langstraat, Officer

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on August 6, 2013, by Alex Langstraat as an Officer of Brace, LLC, an Iowa limited liability company, on behalf of whom the instrument was executed.

Sherry K Crall
Notary Public in the State of Iowa



