

Date December 4, 2017

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 1159 24<sup>th</sup> Street from the Limited "NPC" Neighborhood Pedestrian Commercial District to revised Limited "NPC" Neighborhood Pedestrian Commercial District classification",

which was considered and voted upon under Roll Call No. 17-2012 of November 20, 2017; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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

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19-2012

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Phone: 515/283-4530  
Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Title of Document: City of Des Moines, Ordinance No. \_\_\_\_\_  
Grantor/Grantee: City of Des Moines, Iowa  
Legal Description: See page 1, below.

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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 1159 24<sup>th</sup> Street from the Limited "NPC" Neighborhood Pedestrian Commercial District to revised 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 1159 24<sup>th</sup> Street, more fully described as follows, from the Limited "NPC" Neighborhood Pedestrian Commercial District to revised Limited "NPC" Neighborhood Pedestrian Commercial District classification:

Lot 22, DRAKE UNIVERSITY 3RD ADDITION, 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:

- A. The following uses of structures and land shall not be permitted upon the Property:
1. Gas stations;
  2. Locker plant;
  3. Automotive and motorcycle accessory and parts store;
  4. Lawn mower repair shops;
  5. Radio stations;
  6. Animal hospitals, veterinary clinics, or kennels;
  7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
  8. Ballrooms and dance halls;
  9. Billiards parlors, pool halls and game rooms;
  10. Carpenter and cabinet making shops for retail custom work;
  11. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
  12. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
  13. Drive-in theaters;
  14. Lumber yards;
  15. Mini-warehouse;
  16. Monument sales yards;
  17. Any business holding a liquor license, beer or wine permit which is not operated as either:
    - a. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or
    - b. a gallery and performing arts assembly use that occupies no more than 3,000 square feet of gross floor area (considered a tavern under provisions of the Zoning Ordinance) that is operated in compliance

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with an approved Conditional Use Permit including, but not limited to, hours of operation, sales requirements, and parking arrangements;

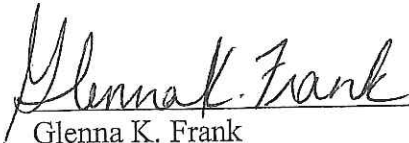
- 18. Plumbing and heating shops;
- 19. Sheet metal shops;
- 20. Sign painting shops;
- 21. Mobile home parks;
- 22. Used car sales lots;
- 23. Garage for general motor vehicle repair;
- 24. Automobile washing establishments;
- 25. Adult entertainment businesses; and
- 26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.

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

Section 4. That the City Clerk is hereby authorized and directed to cause certified copies of the Acceptance of Rezoning Ordinance, this ordinance, vicinity map and proof of publication of this ordinance to be properly filed in the office of the County Recorder of the county in which the subject property is located.

FORM APPROVED:



Glenna K. Frank  
Assistant City Attorney



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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Phone: 515/283-4530  
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: TTSR Holdings, LLC (Owner) and Tobi Parks d/b/a Harvey Parks Properties (Purchaser)  
Grantee's Name: City of Des Moines, Iowa  
Legal Description: Lot 22, DRAKE UNIVERSITY 3RD ADDITION, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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## ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That TTSR Holdings, LLC is the titleholder and Tobi Parks d/b/a Harvey Parks Properties is the purchaser of the Property locally known as 1159 24<sup>th</sup> Street and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the Limited "NPC" Neighborhood Pedestrian Commercial District to revised Limited "NPC" Neighborhood Pedestrian Commercial District, 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:

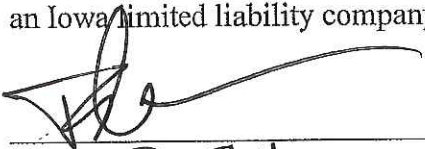
A. The following uses of structures and land shall not be permitted upon the Property:

1. Gas stations;
2. Locker plant;
3. Automotive and motorcycle accessory and parts store;
4. Lawn mower repair shops;
5. Radio stations;
6. Animal hospitals, veterinary clinics, or kennels;

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.

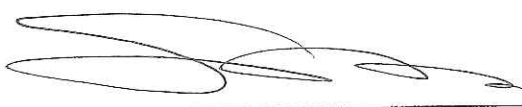
The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

**TTSR HOLDINGS, LLC**  
an Iowa limited liability company

  
By: Tim Thelen  
Its: member/manager

State of Iowa            )  
  ) ss:  
County of Polk            )

This instrument was acknowledged before me on Nov. 7, 2017, by  
Tim Thelen as member/manager of  
TTSR Holdings, LLC.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa



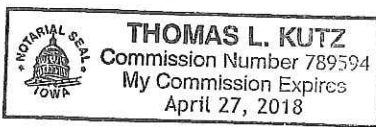
**TOBI PARKS a/k/a Harvey Parks Properties**

*[Handwritten Signature]*

State of Iowa            )  
                                  ) ss:  
County of Polk            )

This instrument was acknowledged before me on NOVEMBER 13, 2017, by Tobi Parks a/k/a Harvey Parks Properties.

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public in and for the State of Iowa



**SPOUSE OF TOBI PARKS**

*[Handwritten Signature]*  
By: Janece Harvey

State of Iowa            )  
                                  ) ss:  
County of Polk            )

This instrument was acknowledged before me on NOVEMBER 13, 2017, by \_\_\_\_\_ as spouse of Tobi Parks a/k/a Harvey Parks Properties.

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

