★ **Roll Call Number**

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Agenda Item Number
54C

Date July 23, 2018

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 2701 and 2703 East Grand Avenue from the "C-1" Neighborhood Retail Commercial District to 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)

Glenna K. Frank
Assistant City Attorney

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Plan and Zoning Commission's recommendation for denial. Des Moines City Code §134-4.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
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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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.

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 2701 and 2703 East Grand Avenue from the "C-1" Neighborhood Retail Commercial District to 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 2701 and 2703 East Grand Avenue, more fully described as follows, from the "C-1" Neighborhood Retail Commercial District to Limited "C-2" General Retail and Highway-Oriented Commercial District classification:

THE EAST 22 FEET OF LOT "B" IN WILLIAM T. SMITH'S GRAND AVENUE ADDITION TO GRANT PARK, AN OFFICIAL PLAT, AND LOT 1 IN BLOCK 19 IN FARWELL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY.

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) The only permitted uses shall be those uses permitted in the "C-1" Neighborhood Retail Commercial District and a HVAC/mechanical contractor shop.
(2) Outside storage is prohibited.
(3) No alteration to the existing buildings or sites shall occur unless such work is in accordance with a site plan that has been approved by the City's Permit and Development Center.

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

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:	Lee E. Rose, Jr. (Owner); Lee Rose, L.L.C. (Owner)
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	THE EAST 22 FEET OF LOT "B" IN WILLIAM T. SMITH'S GRAND AVENUE ADDITION TO GRANT PARK, AN OFFICIAL PLAT, AND LOT 1 IN BLOCK 19 IN FARWELL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Lee E. Rose, Jr. and Lee Rose, L.L.C. are the sole titleholders of the Property locally known as 2701 and 2703 East Grand Avenue and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "C-1" Neighborhood Retail Commercial District to Limited "C-2" General Retail and Highway-Oriented Commercial District, 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) The only permitted uses shall be those uses permitted in the "C-1" Neighborhood Retail Commercial District and a HVAC/mechanical contractor shop.

(2) Outside storage is prohibited.

(3) No alteration to the existing buildings or sites shall occur unless such work is in accordance with a site plan that has been approved by the City's Permit and Development Center.

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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.

Lee E. Rose, Jr.

Lee E Rose Jr.
Lee E. Rose, Jr., Owner

Spouse of Lee E. Rose, Jr., If Any

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on July 12, 2018, by Lee E. Rose, Jr. and _____ (spouse of Lee E. Rose, Jr., if any).

Zerina Lilic
Notary Public in and for the State of Iowa

ZERINA LILIC
Commission Number 810804
My Commission Expires
May 29, 2021

Lee Rose, L.L.C.
an Iowa limited liability company

Lee E Rose Jr
By: Lee E Rose Jr
Its: President

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on July 13th, 2018, by Lee Rose Jr as President of Lee Rose, L.L.C.

D. Ballentine
Notary Public in and for the State of Iowa

DORIAN LEE BALLENTINE
Commission Number 810935
My Commission Expires
8/6/21