

★ Roll Call Number

Agenda Item Number

46A

Date January 28, 2019

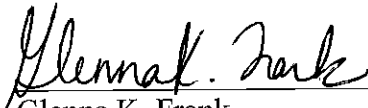
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2800 East University Avenue from the Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised 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

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

4KA

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 2800 East University Avenue from the Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised 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 East University Avenue, more fully described as follows, from the Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised 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.

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 be prohibited upon the Property:
 - 1) Adult entertainment businesses;
 - 2) Tavern and/or nightclub;
 - 3) Off-premises advertising;
 - 4) Sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.
 - 5) Pawn Brokers;
 - 6) Delayed Deposit Services;
 - 7) Any business selling alcohol, exclusive of a tobacco store.

- 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, or for a driveway leading to an overhead door on the north façade of the building so long as the following criteria are satisfied:
 - 1) Any driveway shall be in accordance with all Site Plan requirements and shall comply with all zoning regulations, such as minimum width, unless the Zoning Board of Adjustment grants an appeal of such.
 - 2) Any driveway shall exit either to the alley or to the existing parking lot and not directly to East 28th Street.
 - 3) A 6-foot tall solid wood fence shall be provided along the entire north property line, exclusive of the portion of the fence within the minimum required front yard which may be no taller than 3 feet tall.
 - 4) A chain and bollards shall be provided where the driveway accesses any alley or parking lot to minimize use of the driveway.

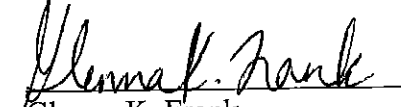
- C. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar small vehicles permitted upon the Property shall be in conformance with a Site Plan approved under the adopted procedures and design guidelines for a vehicle display lot.

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

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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: JS Baker Properties, LLC
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 (Herein "Property")

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That JS Baker Properties, LLC is the titleholder of the Property locally known as 2800 East University Avenue and legally described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the Limited "C-2" General Retail and Highway-Oriented Commercial District to a revised Limited "C-2" General Retail and Highway-Oriented 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 be prohibited upon the Property:
 - 1) Adult entertainment businesses;
 - 2) Tavern and/or nightclub;
 - 3) Off-premises advertising;
 - 4) Sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.
 - 5) Pawn Brokers;
 - 6) Delayed Deposit Services;
 - 7) Any business selling alcohol, exclusive of a tobacco store.

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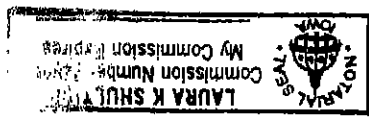
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

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.

JS Baker Properties, LLC
an Iowa limited liability company

John R. Baker JS. PROPERTIES LLC
By: JOHN R. BAKER MANAGING MEMBER
Its: EXECUTOR OF ESTATE

State of Iowa)
) ss:
County of Polk)



This instrument was acknowledged before me on January 17, 2019, by John R. Baker as Managing Member of JS Baker Properties, LLC.

Laura Shultice
Notary Public in and for the State of Iowa

