

★ **Roll Call Number**

Agenda Item Number

45

Date February 11, 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 2040 East Walnut Street from the R1-60 One-Family Low-Density Residential District to Limited C-2 General Retail and Highway Oriented Commercial District classification",

which was considered and voted upon for the first time under Roll Call No. 13- 0068 of January 14, 2013, and considered and voted upon for the second time under Roll Call No. 13- 0136 of January 28, 2013, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

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 2040 East Walnut Street from the R1-60 One-Family Low-Density Residential 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 2040 East Walnut Street, more fully described as follows, from the R1-60 One-Family Low-Density Residential District, to a Limited C-2 General Retail and Highway Oriented Commercial District classification:

Lot 124, Timmons 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:

to allow reuse of the existing commercial building for building contractors office, small engine repair shop, carpenter shop, and hobby/craft shop uses.

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. 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:	Smith Home Restoration, LLC	
Grantee's Name:	City of Des Moines, Iowa	
Legal Description:	Lot 124, Timmons 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 Smith Home Restoration, LLC, an Iowa limited liability company, is the sole owner of the Property in the vicinity of 2040 East Walnut Street, 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 to a Limited C-2 General Retail and Highway Oriented Commercial District classification, I 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:

to allow reuse of the existing commercial building for building contractors office, small engine repair shop, carpenter shop, and hobby/craft shop-uses.

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 Limited C-2, 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.

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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.

Smith Home Restoration, LLC
an Iowa limited liability company

By: *Troy Smith*
Troy Smith, Officer

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on JANUARY 4th, 2013,
by Troy Smith as an officer of Smith Home Restoration, LLC, who is personally known to me
and has been authorized by the Board of Directors to execute this document on behalf of Smith
Home Restoration, LLC.

Donna Carmichael
Notary Public in the State of Iowa

