

★ **Roll Call Number**

Agenda Item Number
40 A

Date January 27, 2014

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 1414 Fremont Street from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District classification",

which was considered and voted upon under Roll Call No. 14- 0086 of January 13, 2014; 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				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
VOSS				
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

40A

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 1414 Fremont Street from the "R1-60" One-Family Low-Density Residential District to a 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 1414 Fremont 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:

West 1/2 of Lot 3, Block 33, Stewarts Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (herein the "Property").

Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional limitations 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:

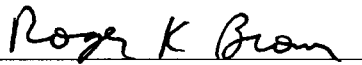
- a) The Property shall be subject to the "VDL" Vehicle Display Lot Overlay District regulations as set forth in Chapter 134, Zoning Ordinance, of the Municipal Code of the City of Des Moines.
- b) The following uses of land and structures shall be prohibited upon the Property:
 - 1) Adult entertainment businesses;
 - 2) Delayed deposit services;
 - 3) Garages for general motor vehicle repair;
 - 4) Liquor stores, taverns and nightclubs;
 - 5) Off-premises advertising signs;
 - 6) Pawnbrokers.

- c) Retention of vehicular drive access on the subject property for the adjoining residence at 1416 Fremont Street.

Sec. 3. This ordinance shall be in full force and effect from and after the later of its passage and publication as provided by law, and the conveyance of the Property to University Group, L.L.C.

Sec. 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:



Roger K. Brown

Assistant City Attorney

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Prepared by: Roger K. Brown, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309
515/283-4541

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: University Group, L.L.C.

Grantee's Name: City of Des Moines, Iowa

Legal Description: West ½ of Lot 3, Block 33, Stewarts Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned University Group, L.L.C., hereby states, warrants and agrees as follows:

1. That University Group, L.L.C., as contract purchaser, and Des Moines Independent Community School District of Des Moines, Iowa, as titleholder and contract seller, and are the sole owners of the Property in the vicinity of 1414 Fremont 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, **to be effective upon University Group, L.L.C., acquiring title to the Property**, we agree to and accept the imposition of the following limitations to run with the land and be binding upon University Group, L.L.C., and its successors and assigns, as part of the ordinance so rezoning the Property:
 - a) The Property shall be subject to the "VDL" Vehicle Display Lot Overlay District regulations as set forth in Chapter 134, Zoning Ordinance, of the Municipal Code of the City of Des Moines.

- b) The following uses of land and structures shall be prohibited upon the Property:
 - 1) Adult entertainment businesses;
 - 2) Delayed deposit services;
 - 3) Garages for general motor vehicle repair;
 - 4) Liquor stores, taverns and nightclubs;
 - 5) Off-premises advertising signs;
 - 6) Pawnbrokers.
- c) Retention of vehicular drive access on the subject property for the adjoining residence at 1416 Fremont Street.

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" General Retail and Highway-Oriented 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.

University Group, L.L.C.,
 an Iowa limited liability company

by: [Signature]
Jeff Spence, Operating Manager

and by: [Signature]
Mark C. Craiger, Secretary

State of Iowa)
) ss:
 County of Polk)

This instrument was acknowledged before me on January 6, 2014, by **Jeff Spence**, as the Operating Manger, and Mark Craiger as the Secretary, of **University Group, L.L.C.**, an Iowa limited liability company, on whose behalf the document was executed..

[Signature]
 Notary Public in the State of Iowa

