

ORDINANCE NO. 13,530

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 2A-5 of the Municipal Code of the City of Des Moines, 1991, by rezoning and changing the district classification of certain property located in the vicinity of 7301 Fleur Drive, from the "R1-80" One-Family Residential District and "R-5" Mobile Home Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District.

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 2A-5 of the Municipal Code of the City of Des Moines, Iowa, 1991, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 7301 Fleur Drive, more fully described as follows:

The West 308.0 feet of the South 167.0 feet of the North 529.0 feet of the North 25 Acres of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 78 North, Range 24 West of the 5th P.M. and the West 343.0 feet of the North 362.0 feet of the North 25 acres of the Northwest 1/4 of the Southeast 1/4 of said Section 32; all now included in and forming a part of the City of Des Moines, Polk County, Iowa (the "Property").

from the "R1-80" One-Family Residential District and "R-5" Mobile Home Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District.

Sec. 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 owner(s) of said property and are binding upon the owner(s) and their successors, heirs, and assigns as follows:

a) The following uses of structures and land shall not be permitted upon the Property:

- 1) Taverns and night clubs, including private clubs.
- 2) Adult entertainment business.
- 3) Used car sales or leasing.

b) At the time of site plan approval of any commercial development of the southern 100 feet of the Property, and in any event prior to any use of the southern 100 feet of the Property for commercial purposes other than the present use of the Property as a mobile home park, the owner(s) of the Property shall provide an ingress/egress easement for access to the "Adjoining Land" to the South of the Property, subject to the requirements in paragraph d), below.

c) At the time of site plan approval of any commercial development of the northern 100 feet of the Property, and in any event prior to any use of the northern 100 feet of the Property for commercial purposes other than the present use of the Property as a mobile home park, the owner(s) of the Property shall provide an ingress/egress easement for access to the "Adjoining Land" to the North of the Property, subject to the requirements in paragraph d), below.

d) The ingress/egress easements provided pursuant to paragraphs b) and c), above, shall conform to the following requirements:

1) The easement area shall be no less than 20 feet wide and shall allow for the construction of a driveway for two-way vehicular travel in accordance with standard engineering specifications between the Adjoining Land and the Fleur Avenue right-of-way at the median break at the main driveway into the Property.

2) The owner(s) of the Property shall have no responsibility for the maintenance of the easement area, but in the event a paved driveway is constructed upon the easement area, the owner(s) of the Property and any benefitted adjoining property owner(s) shall promptly repair and replace any portion of such driveway damaged by such owner(s) or their respective tenants, agents, employees, contractors and invitees.

3) Neither the owner(s) of the Property nor any benefitted adjoining property owner(s) shall obstruct the easement area, which shall be left open at all times for vehicular travel between Fleur Drive and the Adjoining Land.

4) The location of the easement area may be amended by the Owner(s) of the Property with the written consent of the City of Des Moines.

5) The owner(s) of the Adjoining Land benefitted by the ingress/egress easement shall have the right to construct and maintain, at their own expense, a paved driveway upon the easement area in accordance with standard engineering specifications.

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

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance, the Acceptance of Rezoning Ordinance and proof of publication of this ordinance to be properly filed in the office of the Recorder of Polk County, Iowa.

FORM APPROVED:

Roger K. Brown

Assistant City Attorney