

ORDINANCE NO. 14,480

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 4180 NE 43rd Court from the "A-1" Agricultural District and "C-2" General Retail and Highway Oriented Commercial District classifications to the Limited "C-2" General Retail and Highway Oriented Commercial District and "R1-80" One-Family Residential District classifications.

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 4180 NE 43rd Court, more fully described as follows, from the "A-1" Agricultural District and "C-2" General Retail and Highway Oriented Commercial District classifications to the Limited "C-2" General Retail and Highway Oriented Commercial District and "R1-80" One-Family Residential District classifications:

From "A-1" & "C-2" to Limited "C-2"

Lot 21, EXCEPT the Northwesterly 2 feet thereof and EXCEPT the Northerly 62 feet of the Westerly 25 feet thereof; AND, Lots 22 and 23 EXCEPT the Northerly 2 feet thereof; AND, Lot 48 EXCEPT the South 153 feet thereof; AND, Lot 20, all in Capitol Heights Replat, an Official Plat, all included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Commercial Property").

From "A-1" to "R1-80"

The South 153 feet of Lot 48, in Capitol Heights Replat, an Official Plat, all included in and forming a part of the City of Des Moines, Polk County, Iowa.

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 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 NOT be permitted upon the Commercial Property:
1. Adult entertainment business;
  2. Off premises advertising;
  3. Package goods store for the sale of alcoholic beverages
  4. Taverns and nightclubs, including private clubs;
  5. Used car sales lots, and businesses engaged in the outside display of automobiles, trailers, motorcycles, boats, and farm implements for sale, rental or hire.
- B. Any building constructed or placed upon the Commercial Property for other than single or two family residential use shall have at least 25% of each building facade fronting Hubbell Avenue or NE 43rd Court constructed of brick, masonry or other non-metallic architectural accent material approved by the Community Development Director.

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 the vicinity map, this ordinance, proof of publication of this ordinance, and the Acceptance of Rezoning Ordinance signed by all owners of the Property, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 05-1959), passed by the City Council of said City at a meeting held August 8, 2005 signed by the Mayor on August 8, 2005 and published as provided by law in the Business Record on August 22, 2005 Authorized by Publication Order No.4838.

Diane Rauh, City Clerk