

ORDINANCE NO. 15,392

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 1240 and 1244 2nd Avenue ("Property Area A") from "R1-60" One-Family Low-Density Residential District, Limited "NPC" Neighborhood Pedestrian Commercial District, and "M-1" Light Industrial District to Limited "M-1" Light Industrial District, and by rezoning and changing the remaining portion of the property located at 1240 and 1244 2nd Avenue ("Property Area B") from "M-1" Light Industrial District, "R1-60" One-Family Low Density Residential District, and Limited "NPC" Neighborhood Pedestrian Commercial District to Limited "NPC" Neighborhood Pedestrian 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 1240 and 1244 2nd Avenue ("Property Area A") from "R1-60" One-Family Low-Density Residential District, Limited "NPC" Neighborhood Pedestrian Commercial District, and "M-1" Light Industrial District to Limited "M-1" Light Industrial District classification, legally described as follows:

Property Area A (From R1-60, NPC, and M-1 to Limited M-1):

LOTS 143 THROUGH 147 AND A PART OF LOTS 141, 142 AND 148 AND A PART OF THE ALLEYS LYING ADJACENT TO THE PREVIOUSLY STATED LOTS IN RUTHERFURD HEIGHTS, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 145; THENCE SOUTH 00°26'23" EAST ALONG THE EAST LINE OF SAID LOTS 145, 146, 147 AND 148, A DISTANCE OF 162.99 FEET; THENCE SOUTH 89°49'21" WEST, 72.32 FEET; THENCE SOUTH 00°00'25" EAST, 28.40 FEET; THENCE SOUTH 89°49'21" WEST, 203.04 FEET TO THE EAST LINE OF LOT 139, RUTHERFURD HEIGHTS; THENCE NORTH 00°36'35" WEST ALONG THE EAST LINE OF LOTS 139 AND 138, RUTHERFORD HEIGHTS, 58.47 FEET TO THE NORTHEAST CORNER OF LOT 138, RUTHERFURD HEIGHTS; THENCE NORTH 00°13'59" EAST ALONG THE EAST LINE OF LOTS 137, 136 AND 135,

RUTHERFURD HEIGHTS, 134.31 FEET TO THE NORTHEAST CORNER OF LOT 135, RUTHERFURD HEIGHTS; THENCE SOUTH 89°53'17" EAST ALONG THE NORTH LINE OF ALLEY AND LOTS 143, 144 AND 145, RUTHERFURD HEIGHTS, 274.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 50,801 SQUARE FEET.

Section 2. That this ordinance and the zoning of Property Area A 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 Area A and are binding upon the owners and their successors, heirs, and assigns as follows:

For Property Area A, Limited "M-1" District:

1. Prohibition of the following uses:
 - a) Adult entertainment establishments;
 - b) Billiard parlor/game room;
 - c) Communication tower/antenna (unless as an extension of 20 feet or less from the structure);
 - d) Delayed deposit services;
 - e) Pawn brokers;
 - f) Gas stations/convenience stores;
 - g) Off-premises advertising signs;
 - h) Liquor stores where gross revenues of tobacco and alcohol products exceed 40%;
 - i) Taverns and nightclubs;
 - j) Contractors equipment storage yard;
 - k) Outdoor storage;
 - l) Vehicle display for sale or rental;
 - m) Circus, carnival, or similar enterprise;
 - n) Coalyard, cokeyard, or woodyard;
 - o) Concrete mixing or concrete products manufacture;
 - p) Bulk storage of flammable liquids;
 - q) Communication towers and antennas; and
 - r) Livery stable or riding academy.
2. The building height of any structure on Property Area A shall be limited to a maximum of 35 feet.
3. Any expansion of existing buildings or construction of new buildings shall be constructed primarily of masonry block material compatible with the buildings existing as of the effective date of this ordinance. Storefronts oriented toward 2nd Avenue may have brick or lap siding material.

Section 3. 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 remaining portion of the property located at

1240 and 1244 2nd Avenue (“Property Area B”) from “M-1” Light Industrial District, “R1-60” One-Family Low Density Residential District, and Limited “NPC” Neighborhood Pedestrian Commercial District to Limited “NPC” Neighborhood Pedestrian Commercial District classification, legally described as follows:

Property Area B (From Limited NPC, M-1, and R1-60 to Limited NPC):

LOTS 150 AND A PART OF LOTS 141, 142, 148 AND 149 AND A PART OF THE ALLEYS LYING ADJACENT TO THE PREVIOUSLY STATED LOTS IN RUTHERFURD HEIGHTS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 140, RUTHERFURD HEIGHTS; THENCE NORTH 00°36'35" WEST ALONG THE EAST LINE OF LOTS 140 AND 139, RUTHERFURD HEIGHTS, 91.84 FEET; THENCE NORTH 89°49'21" EAST, 203.04 FEET; THENCE NORTH 00°00'25" WEST, 28.40 FEET; THENCE NORTH 89°49'21" EAST, 72.32 FEET TO THE EAST LINE OF LOT 148, RUTHERFURD HEIGHTS; THENCE SOUTH 00°26'23" EAST ALONG THE EAST LINE OF LOTS 148 AND 149, RUTHERFURD HEIGHTS, 32.04 FEET TO THE NORTH CORNER OF THE ACQUISITION PLAT RECORDED IN BOOK 6705 PAGE 48; THENCE SOUTH 02°26'34" WEST ALONG THE WEST LINE OF SAID ACQUISITION PLAT, 89.87 FEET TO THE SOUTH LINE OF SAID LOT 150 AND THE SOUTHWEST CORNER OF SAID ACQUISITION PLAT; THENCE NORTH 89°50'38" WEST ALONG THE SOUTH LINE OF SAID LOT 150, 142, 141 AND THE ADJACENT ALLEYS, 270.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 27,372 SQUARE FEET.

Section 4. That this ordinance and the zoning of Property Area B 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 Area B and are binding upon the owners and their successors, heirs, and assigns as follows:

For Property Area B, Limited “NPC” District:

1. Prohibition of the following uses:
 - a) Billiard parlor/game room;
 - b) Communication tower/antenna (unless as an extension of 20 feet or less from the structure);
 - c) Delayed deposit services;
 - d) Pawn brokers;
 - e) Gas stations/convenience stores;
 - f) Off-premises advertising signs;

- g) Liquor stores where gross revenues of tobacco and alcohol products exceed 40%;
 - h) Taverns and nightclubs; and
 - i) Adult entertainment establishments.
2. Any submitted Site Plan shall adhere to the “NPC” Design Guideline that requires the maximum number of off-street parking spaces provided to be limited to a number that is no greater than what is typically required as a minimum number of spaces in a standard commercial zoning district.
 3. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that complement the principal building with steel gates.

Section 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 6. 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

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. 15-1301), passed by the City Council of said City at a meeting held July 27, 2015 signed by the Mayor on July 27, 2015 and published and provided by law in the Business Record on August 14, 2015. Authorized by Publication Order No. 9311.

Diane Rauh, City Clerk