

★ Roll Call Number

Agenda Item Number

45

Date..... October 27, 2008

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 the property described in Exhibit "A" from "R-3" Multiple Family Residential District and "M-1" Light Industrial District to the "R1-60" One-Family Low-Density Residential District",

which was considered and voted upon for the first time under Roll Call No. 08- 1694 of September 22, 2008 and considered and voted upon for the second time under Roll Call No.08- 1789 of October 13, 2008, again presented.

MOVED by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO. \_\_\_\_\_

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

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

MOTION CARRIED

APPROVED

.....  
Mayor

★ Roll Call Number

08-1789

Agenda Item Number

5645

Date October 13, 2008

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 the property described in Exhibit "A" from "R-3" Multiple Family Residential District and "M-1" Light Industrial District to the "R1-60" One-Family Low-Density Residential District",

which was considered and voted upon under Roll Call No. 08-1694 of September 22, 2008 and was amended to delete the properties located at 1243 7th Street and 1804 Arlington Street, and subject to amending the rezoning for 1233 7th Street to Limited R-3 classification that is restricted to single-family or two-family uses; again presented.

MOVED Vlassis that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER				✓
VLASSIS	✓			
TOTAL	6			1

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.

Diane Fauh City Clerk

MOTION CARRIER APPROVED

T. M. Franklin Council

Mayor

45.



**Council  
Communication**  
Office of the City Manager

<b>Date</b>	October 13, 2008
<b>Agenda Item No.</b>	56
<b>Roll Call No.</b>	<del>08-1789</del>
<b>Communication No.</b>	<del>08-623</del>
<b>Submitted by:</b>	Larry Hulse, Community Development Director

**AGENDA HEADING:**

Second Reading of an Ordinance to rezone a portion of River Bend Neighborhood Area from “R-3” (Multiple Family Residential) and “M-1” (Light Industrial) to “R1-60” (One-Family Low-Density Residential).

**SYNOPSIS:**

On September 22, 2008 the City Council held a public hearing and approved the first reading of an ordinance to rezone portions of the Riverbend Neighborhood Association from “R-3” and “M-1” to “R1-60”, subject to amendments. The ordinance has been amended per the Council’s directive. Staff recommends approval of the amended ordinance.

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

On September 22, 2008 the Council considered multiple requests to have individual properties removed from the rezoning. They are as follows:

- 1233 7<sup>th</sup> Street— The existing duplex on the subject property was originally built as a two-family dwelling. The lot width of 50-feet does not conform to the “R-3” District regulations so the property is currently legal non-conforming. Since the property was originally built as a two-family dwelling, staff recommended that the property be rezoned to a “limited R-3” Multiple-Family Residential District that restricts use of the property to either a single-family or two-family dwelling. Use of the property would continue to be legal non-conforming under the “limited R-3” zoning. The property owner signed a letter of zoning acceptance for the limited rezoning. The Council approved “limited R-3” zoning for this property during first reading of the ordinance.
- 1243 7<sup>th</sup> Street—The existing duplex conforms to the “R-3” District regulations. Because the property was converted to a duplex after December 31, 1996, it would become a non-conforming use in the “R1-60” District. The Council approved the removal of this property from the rezoning during first reading of the ordinance.

- 1804 Arlington Avenue— The existing duplex conforms to the “R-3” District regulations. Because the property was converted to a duplex after December 31, 1996, it would become a non-conforming use in the “R1-60” District. The Council approved the removal of this property from the rezoning during first reading of the ordinance.
- 1310 7<sup>th</sup> Street – The building was originally constructed as a single-family dwelling. The lot area of 9,975 square feet and lot width conform to the requirements for a single-family dwelling in both the “R-3” and “R1-60” zoning districts. The zoning enforcement officer has determined that existing use of the structure as the Catholic Worker House could be considered a legal, non-conforming accessory use of the single-family dwelling if the use is confined to no more than one-half of the area of one floor level of the building (i.e. the existing activities of the Catholic Worker House exceed the current definition of an accessory use but could be considered grandfathered upon agreement to limit the area use for accessory activities). The Catholic Worker House is not classified as an “institution of religious, educational, or philanthropic nature as the property does not meet the minimum 10,000 square feet of lot area. Such a designation would also require the use to comply with Building Code Occupancy requirements for a place of assembly (commercial construction standards versus residential construction standards including a commercial kitchen, parking, etc.). Rezoning to the “R1-60” District does not impact the present use of the property. The Council supported the rezoning of the subject property to the “R1-60” District during first reading of the ordinance.
- 713 Indiana Avenue – The building was originally constructed as a single-family dwelling. The lot width of 56 feet and lot area of 2,835 square feet do not conform to the “R-3” District regulations so the property is currently legal non-conforming. Use of the property would continue to be legal non-conforming under the “R1-60” District designation. Future accessory use of the subject property would have to conform to the current definition of an accessory use. The Council supported rezoning of the subject property to the “R1-60” District during first reading of the ordinance.
- 1301 8<sup>th</sup> Street – The building was originally constructed as a single-family dwelling. The lot width of 50 feet and lot area of 3,750 square feet do not conform to the “R-3” District regulations so the property is currently legal non-conforming. Use of the property would continue to be legal non-conforming under the “R1-60” District designation. Future accessory use of the subject property would have to conform to the current definition of an accessory use. The Council supported rezoning of the subject property to the “R1-60” District during first reading of the ordinance.
- 1317 8<sup>th</sup> Street - The building was originally constructed as a single-family dwelling. The lot width of 50 feet does not conform to the “R-3” District regulations so the property is currently legal non-conforming. Use of the property would continue to be legal non-conforming under the “R1-60” District designation. Future accessory use of the subject property would have to conform to the current definition of an accessory use. The Council supported rezoning of the subject property to the “R1-60” District during first reading of the ordinance.

The Council also received a complaint from the Riverbend Neighborhood Association regarding the non-conforming status of 1712 8<sup>th</sup> Street. The building was previously utilized as an 8-unit conversion dwelling and was enforced upon as a public nuisance. While rights to a rental certificate for 8-units ceased under the terms of the Rental Housing Code, the non-conforming rights for a multiple-unit conversion dwelling were preserved under the terms of the Zoning Code. The property owner took a

tangible action to preserve multiple-unit use of the property while the building was vacant by obtaining required building permits and diligently completing renovation of the structure to a six-unit conversion dwelling. Therefore, the property is now a legal non-conforming six-unit conversion dwelling under the zoning code. The applicant is entitled to apply for a rental certificate for 6-dwelling units.

**PREVIOUS COUNCIL ACTION(S):**

Date: September 22, 2008

Roll Call Number: 08-1694

Action: First consideration of ordinance above. Moved by Vlassis that this ordinance be considered and given first vote for passage, and directing that the ordinance be amended before the second reading to reflect the changes noted in the hearing roll call. Motion Carried 7-0.

Date: September 8, 2008

Roll Call Number: 08-1580

Action: On Council-initiated request to rezone a portion of Riverbend Neighborhood Area from "R-3" (Multiple Family Residential) and "M-1" (Light Industrial) to "R1-60" (One-Family Low-Density Residential), (9-22-08). Moved by Vlassis to adopt. Motion Carried 7-0.

Date: July 14, 2008

Roll Call Number: 08-1275

Action: Resolution initiating the rezoning of a portion of the River Bend Neighborhood to R1-60 (One-Family Low-Density Residential). (Council Communication No. 08-418) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: April 21, 2008

Roll Call Number: 08-697

Action: From Council Member Tom Vlassis to discuss Riverbend down-zoning to R-1. Moved by Vlassis to refer to the City Manager and City Attorney to work with the Riverbend Neighborhood Association regarding the down-zoning. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Date: August 21, 2008

Roll Call Number: N/A

Action: The Plan and Zoning Commission recommended approval of a Council-initiated request (Roll Call 08-1275) to rezone a portion of the River Bend Neighborhood from "R-3" Multiple Family

Residential District and "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Final consideration of the amended rezoning ordinance.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

86 45  
LISA  
~~08-16-14~~  
08-17-89

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 the property described in Exhibit "A" from "R-3" Multiple Family Residential District and "M-1" Light Industrial District to the "R1-60" One-Family Low-Density Residential 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 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 the property described in Exhibit "A" from "R-3" Multiple Family Residential District and "M-1" Light Industrial District to the "R1-60" One-Family Low-Density Residential District.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 3. 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

08-1889  
616  
45

EXHIBIT "A"

River Bend Region

This Area to be Rezoned from "R-3" to "R1-60"

Area East of 6<sup>th</sup> Avenue and West of 2<sup>nd</sup> Avenue  
and South of the Des Moines River Flood Line and  
North of College Avenue

River Bend Rezoning

By James D. Wittkop August 5, 2008

Revised By James D. Wittkop October 7, 2008

Lots 1 thru 7, Franklin Place, an Official Plat and the West 362.0 feet Lot 51, Oakland Plat 2, an Official Plat, and the West 300.0 feet Lots 53 and 56, of said Oakland Plat 2, and the West 350.0 feet Lots 54 and 55, of said Oakland Plat 2 and the South 80.0 feet of the West 360.0 feet of Lot 57, of said Oakland Plat 2 and Lots 1 thru 4, Oakdale, an Official Plat, and the East 25.0 feet Lot 6, of said Oakdale and the West 35.0 feet Lot 7 of said Oakdale, and Lots 4 thru 6 and the North ½ of Lot 7, Oakland, an Official Plat, and the East ½ of the vacated North/South alley lying West of and adjoining said Lots 4 thru 6 and the North ½ of Lot 7, and Lots 11 and 12 and the East ½ of the vacated North/South alley lying West of and adjoining said Lots 11 and 12, and the South 25.0 feet of Lot 14, of said Oakland, and the East ½ of the vacated North/South alley lying West of and adjoining the South 25.0 feet of said Lot 14, and Lots 15 thru 18, of said Oakland and the East ½ of vacated North/South alley lying West of and adjoining said Lots 15 thru 18, and the vacated East/West alley lying South of and adjoining said Lot 18, and lying South of and adjoining vacated North/South alley lying West of said Lot 18, and the Vacated East/West alley lying South of and adjoining Lot 19 of said Oakland and Lots 19 thru 23, of said Oakland and the West ½ of vacated North/South alley lying East of and adjoining said Lot 19 thru 23, and the North 25.0 feet of Lot 25, of said Oakland, and the West ½ of vacated North /South alley lying West of and adjoining said Lot 25 and Lots 26 thru 36, of said Oakland and the West ½ of the vacated alley lying East of and adjoining said Lots 26 thru 36, and the West 151.5 feet of Lot 37, Oakland and the West 151.5 feet of the North 50.feet of Lot 38, and the South 50.0 feet of Lot 38, of said Oakland, and the North 40.0 feet of lot 41, of said Oakland, and the North 89.0 feet of Lot 42, of said Oakland, Lot 45 of said Oakland, Lot 47,of said Oakland (except the North 110.0 feet of the of the South 225.0 feet of the East 150.0 feet and except the South 110.0 feet of the North 125.0 feet except the East 150.0 feet of said Lot 47), and the West 60.0 feet Lot1 of the Official Plat of Lot 46,of said Oakland, and Lots 3 and 4 of said Lot 46, of said Oakland, and the East 145.0 feet of the North 153.0 feet Lot 12, Block 3, Polk County Homestead & Trust Company, an Official Plat, and (except the South 4.0 feet of the West 26.0 feet) The East 167.0 feet Lot 1, of said Block 3, and Lot 1, Riverview Park an Official Plat (except the East 85.0 feet and except Zoned



Floodway), and Lots 2 thru 6, of said Riverview Park (except Zoned Floodway), and the East 75.0 feet of the South 135.0 feet Lot 7, of said Riverview Park and the West ½ Lot 11 (except the North 6.0 feet), of said Riverview Park, and Lot 12, and Lots 14 thru 16, of said Riverview Park, and Lot 38 of Government Lot 3 and the Southeast ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and the East 10.0 feet of Lot 1 and Lots 2 thru 6, and Lots 9 thru 13, Arlington Place, an Official Plat, and Lots 1 thru 3 Jackson's Subdivision of Lot 13 of Riverview Park, an Official Plat, together with any intervening streets and alleys and the adjoining one-half of any adjoining streets and alleys, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

### River Bend Region

This Area to be Rezoned from "R-3" to "R1-60"

West of 6<sup>th</sup> Avenue and West of 9<sup>th</sup> Street  
and South of the Des Moines River Flood Line and  
North of University Avenue

Lots 10 thru 12, Glen Baily Replat, an Official Plat (except Hickman Road right-of-way and except zoned Floodway) and the West 100.0 feet of Lot 13, of said Glen Baily Replat (except Hickman Road right-of-way and except zoned Floodway) and Lot 1, Hilltop, an Official Plat, (except Hickman Road right-of-way and except zoned Floodway) and Lots 5 and 6, Corrected Plat 2<sup>nd</sup> Plat Prospect Park, an Official Plat, (except Hickman Road right-of-way and except zoned Floodway), and Lot 8, of said Corrected Plat 2<sup>nd</sup> Plat Prospect Park, (except zoned Floodway), and the North 240.0 feet as measured on the West lot line and the North 148.0 feet as measured on the East Lot line, Lot 7, of said Corrected Plat 2<sup>nd</sup> Plat Prospect Park, (except zoned Floodway), and Lots 9 thru 13, Lots 16 thru 25, Lots 28 thru 32, Lots 35 thru 39, Lots 41 thru 44, Lots 47 and 48 and Lot 50, of said Corrected Plat 2<sup>nd</sup> Plat Prospect Park, and Lots 10 and 11, of the Official Plat of Government Lot 2 Section 34, Township 79 North, range 24 West of the 5<sup>th</sup> P.M, and Lot 13, and the South 10.0 feet Lot 14, and Lots 20 and 21, and Lots 50 and 51, and Lots 53 and 54, all of said Official Plat of Government Lot 2 Section 34, Township 79 North, range 24 West of the 5<sup>th</sup> P.M, and all Blocks 10, 11, 14 and 15, Polk County Homestead and Trust Company, and Official Plat, and Lots 8 thru 14, Block 6, of said Polk County Homestead and Trust Company, and Lots 9 thru 16, Block 5, of said Polk County Homestead and Trust Company, and Lots 9 thru 16, Block 4, of said Polk County Homestead and Trust Company and Lots 1 thru 11, and Lots 15 and 16, and the South 4.5 feet of Lot 12, Block 13, of said Polk County Homestead and Trust Company, and Lots 1 thru 8, and Lots 11 thru 16, and the South 42.0 feet, Lot 9 and the North 8.0 feet Lot 10, Block 12, of said Polk County Homestead and Trust Company, and Lots 1 thru 4 and Lots 21 thru 24 Fink's Addition Plat No. 1, an Official Plat, and Lots 5 thru 20 and Lots 26 thru 33 and the vacated North /South alley lying East of and adjoining Lots 26 thru 33,

and Lots 34 thru 41, Fink’s Addition Plat No 2, an Official Plat, and the West 280.0 feet of the East 305.0 feet of the North 200.0 feet of the South 266.0 feet (except the East 30.0 feet ) Lot 44, of the Official Plat of Government Lot 3, and the Southeast ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and Lots 6 thru 10 of the Corrected Plat of the North 236.0 feet of the South 266.0 feet (except the East 30.0 feet) of Lot 43, of the Official Plat of Government Lot 3, and the Southeast ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and the East 129.0 feet of the West 154.0 feet of the South 107.0 feet of the North 132.0 feet Lot 43 of said Official Plat of Government Lot 3, and the Southeast ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and Lots 6 thru 10, Rollinsons' Addition to North Des Moines, an Official Plat, and Lots 1 thru 20 E. M. Kelsey’s Subdivision, an Official Plat, and the West 104.5 feet of Lot 46 of Government Lot 3 of the Official Plat of Southeast ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and Lots 1 thru 9, Block A, Thompson’s Subdivision, an Official Plat and Lots 1 and 2, 4 and 5 and the East 20.0 feet Lot 3, Block B of said Thompson’s Subdivision,

and Lots 1 thru 4, Butt’s Subdivision, and Official Plat, and the vacated North/South alley lying West of and adjoining said Lots 1 thru 4, and Lots 5 thru 9, of said Butt’s Subdivision, and Lots 6 thru 21, Lots 25 thru 37 and Lots 56 thru 83< North Park, an Official Plat, and Lot 10 and Lots 13 thru 23, Grand Park, an Official Plat, and Lots 10 thru 12, Enos B. Hunt’s Addition, to North Des Moines, an Official Plat, and Lot 1 thru 4, Hallett’s Addition, an Official Plat and the vacated East/West alley lying North of and adjoining of said Lot 1, and Lots 1, 2, 17, 20 and 21 (except the East 3.0 feet) of the Official Plat of Lot 17 of the Official Plat of the Southwest ¼ of Section 34, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and Lots 1 thru 4, Nash’s Subdivision, an Official Plat, and Lots 1 thru 12, Harland & Tubb’s Replat of McMartin & Snell’s Addition, an Official Plat, and the East 138.0 feet of the South 50. 0 feet Lot 37, Block G, Edgewood Park, an Official Plat, and the east 145.0 feet of the North 72.5 feet of the South 122.5 feet of said Lot 37, and the East 166.0 feet of the North 65.0 feet of the South 187.5 feet of said Lot 37, and the East 144.0 feet of the North 50.0 feet of said Lot 37, and Lots 31 thru 36, Block A, of said Edgewood Park, and the vacated East/West alley lying South of and adjoining said Lot 36, and Lots 1 thru 8, Block 21, Prospect Park, an Official Plat, and Lots 2 and 3 Block 20, of said Prospect Park, and Lots 51 thru 69, Prospect Park Third Plat, an Official Plat, and Lots 70 and 71, of said Prospect Park third Plat, (except Hickman Road right-of-way), together with any intervening streets and alleys and the adjoining one-half of any adjoining streets and alleys, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

River Bend Region

This Lot to be Rezoned from “R-3” to “Limited R-3”

Lot 9, Grand Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.