



Roll Call Number

Agenda Item Number

43C

Date December 7, 2015

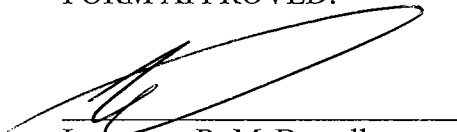
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 4141 East 14th Street from the "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District classification",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



Lawrence R. McDowell
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
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.

MOTION CARRIED APPROVED

Mayor

City Clerk

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Prepared by: Lawrence R. McDowell, Deputy City Attorney, 400 Robert D. Ray Drive, Des Moines, IA
50309 Phone: 515/283-4130
Return Address: City Clerk - City Hall, 400 Robert D. Ray Drive, Des Moines, IA 50309
Title of Document: City of Des Moines, Ordinance No. _____
Grantor/Grantee: City of Des Moines, Iowa
Legal Description: See page 1, below.

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 4141 East 14th Street from the "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial 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 4141 East 14th Street, more fully described as follows, from the "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District classification:

Beginning at a point 33 feet East and 25 feet South of the NW corner of the SW ¼ of Section 24, Township 79 North, Range 24, West of the 5th P.M.; thence East along the South line of Aurora Avenue 200 feet; thence South 180 feet parallel to the East line of East 14th Street; thence West along a line parallel to the South line of Aurora Avenue 200 feet; thence North 180 feet to the Point of Beginning, now included in and forming a part of City of Des Moines, Polk County, Iowa, subject to road easement.

Section 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 the owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allowed in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
- (2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
- (3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
- (4) Any overhead doors on any principal or accessory building shall not directly face public streets, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately designed in such a manner that their visual impact would be minimal.
- (5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

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

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Section 4. 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:



Lawrence R. McDowell
Deputy City Attorney

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Prepared by: Lawrence R. McDowell, Deputy City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309 Phone: 515/283-4530
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: Imperial Properties, Inc. (Owner)
Grantee's Name: City of Des Moines, Iowa
Legal Description: Beginning at a point 33 feet East and 25 feet South of the NW corner of the SW ¼ of Section 24, Township 79 North, Range 24, West of the 5th P.M.; thence East along the South line of Aurora Avenue 200 feet; thence South 180 feet parallel to the East line of East 14th Street; thence West along a line parallel to the South line of Aurora Avenue 200 feet; thence North 180 feet to the Point of Beginning, now included in and forming a part of City of Des Moines, Polk County, Iowa, subject to road easement.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Imperial Properties, Inc. is the sole titleholder of the Property locally known as 4141 East 14th Street and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District to allow use of the property for light industrial uses, we agree and accept on behalf of the owners to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

- (1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allowed in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.

- 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
- (2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
 - (3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
 - (4) Any overhead doors on any principal or accessory building shall not directly face public streets, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately designed in such a manner that their visual impact would be minimal.
 - (5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

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 "M-1" Light Industrial District, 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.

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Imperial Properties, Inc.

Bill Moyer
By: Bill Moyer, Director

State of Iowa)
) ss:
County of Polk)

On this 3rd day of December, 2015, before me, a notary public, personally appeared Bill Moyer, to me personally known, who being by me duly sworn did say that he is Director of Imperial Properties, Inc. an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation, and that he, as such officer, acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

Julie C. Lindsay
Notary Public in and for the State of Iowa

