



# Roll Call Number

Agenda Item Number

47C

Date August 8, 2016

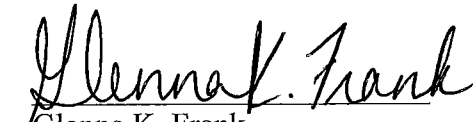
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3201, 3211 and 3221 Forest Avenue and 1414 and 1420 32<sup>nd</sup> Street from the Limited "NPC" Neighborhood Pedestrian Commercial District and "R1-60" One-Family Low-Density Residential District to amended Limited "NPC" Neighborhood Pedestrian Commercial District classification",

presented.

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

FORM APPROVED:

(First of three required readings)

  
Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

## 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

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Prepared by: Glenna K. Frank, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, IA 50309  
Phone: 515/283-4530  
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.

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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 3201, 3211 and 3221 Forest Avenue and 1414 and 1420 32<sup>nd</sup> Street from the Limited "NPC" Neighborhood Pedestrian Commercial District and "R1-60" One-Family Low-Density Residential District to amended 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 3201, 3211 and 3221 Forest Avenue and 1414 and 1420 32<sup>nd</sup> Street, more fully described as follows, from the Limited "NPC" Neighborhood Pedestrian Commercial District and "R1-60" One-Family Low-Density Residential District to amended Limited "NPC" Neighborhood Pedestrian Commercial District classification:

The South 135 feet of Lot 1, (except the North 80 feet) Lot 2, all of Lot 3, (except the North 142 feet) Lot 4, RUTLEDGE PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

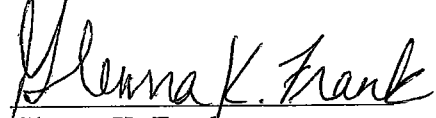
Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) The following uses shall be prohibited on the Property:
  - a) taverns and nightclubs,
  - 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, and
  - h) liquor stores where gross revenues of tobacco and alcohol products exceed 40% of sales;
- (2) The density of any future residential development on the Property shall be dependent upon Site Plan review and upon the traffic study required to be submitted with the Site Plan;
- (3) Any development of the Property shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District;
- (4) Any development of a multiple-family residential use on the Property shall be in accordance with a Site Plan under the Design Guidelines for Multiple-Family Residential;
- (5) The siding material on the front façade of any structure on the Property shall primarily consist of full dimension brick or masonry materials, which material shall be used on side and rear facades in a pattern that relates to the front façade;
- (6) The use of vinyl and/or EIFS siding is prohibited on the Property;
- (7) Any shingles used on the Property shall be architectural style;
- (8) Any off-street parking on the Property shall be landscaped and screened in accordance with the City's Landscape Standards as applicable to the "C-2" District;
- (9) Any development of the Property shall include a landscaped streetscape within adjoining Forest Avenue right-of-way in accordance with the City's Landscape Standards as applicable to the "C-3" District; and
- (10) Any trash enclosure on the Property shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that complement the principal building with steel gates; and

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

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:

A handwritten signature in cursive script, reading "Glenna K. Frank". The signature is written in dark ink and is positioned above the printed name and title.

Glenna K. Frank  
Assistant City Attorney

47C

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Prepared by: Glenna K. Frank, Assistant 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: Neighborhood Development Corporation (Owner)  
Grantee's Name: City of Des Moines, Iowa  
Legal Description: The South 135 feet of Lot 1, (except the North 80 feet) Lot 2, all of Lot 3, (except the North 142 feet) Lot 4, RUTLEDGE PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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## **ACCEPTANCE OF REZONING ORDINANCE**

The undersigned hereby state, warrant and agree as follows:

1. That Neighborhood Development Corporation is the sole titleholder of the Property locally known as 3201, 3211 and 3221 Forest Avenue and 1414 and 1420 32<sup>nd</sup> Street, and legally described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the Limited "NPC" Neighborhood Pedestrian Commercial District and "R1-60" One-Family Low-Density Residential District to amended Limited "NPC" Neighborhood Pedestrian Commercial District, we agree and accept on behalf of the owner 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) The following uses shall be prohibited on the Property:
  - a) taverns and nightclubs,
  - 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, and
  - h) liquor stores where gross revenues of tobacco and alcohol products exceed 40% of sales;
- (2) The density of any future residential development on the Property shall be dependent upon Site Plan review and upon the traffic study required to be submitted with the Site Plan;
  - (3) Any development of the Property shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District;
  - (4) Any development of a multiple-family residential use on the Property shall be in accordance with a Site Plan under the Design Guidelines for Multiple-Family Residential;
  - (5) The siding material on the front façade of any structure on the Property shall primarily consist of full dimension brick or masonry materials, which material shall be used on side and rear facades in a pattern that relates to the front façade;
  - (6) The use of vinyl and/or EIFS siding is prohibited on the Property;
  - (7) Any shingles used on the Property shall be architectural style;
  - (8) Any off-street parking on the Property shall be landscaped and screened in accordance with the City's Landscape Standards as applicable to the "C-2" District;
  - (9) Any development of the Property shall include a landscaped streetscape within adjoining Forest Avenue right-of-way in accordance with the City's Landscape Standards as applicable to the "C-3" District; and
  - (10) Any trash enclosure on the Property shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that complement the principal building with steel gates; and

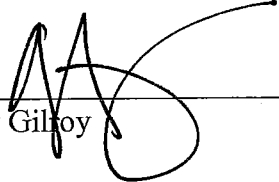
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "NPC" Neighborhood Pedestrian Commercial 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.

47C

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.

**Neighborhood Development Corporation**

  
By: Abbey Gilroy

State of Iowa            )  
                                  ) ss:  
County of Polk         )

On this 1<sup>st</sup> day of August, 2016, before me, a notary public, personally appeared Abbey Gilroy, to me personally known, who being by me duly sworn did say that she is the Dir. of Real Estate Development of Neighborhood Development Corporation, an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that she, 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/her voluntarily executed.



  
Notary Public in the State of Iowa