

★ **Roll Call Number**

Agenda Item Number
50A

Date February 20, 2017

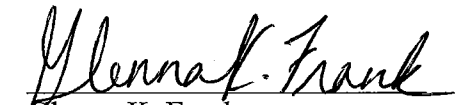
An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of a portion of certain property located in the vicinity of 1244 2nd Avenue from the Limited "M-1" Light Industrial District to amended 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)


 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

SOA

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.

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 a portion of certain property located in the vicinity of 1244 2nd Avenue from the Limited "M-1" Light Industrial District to amended 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 a portion of certain property located in the vicinity of 1244 2nd Avenue, more fully described as follows, from the Limited "M-1" Light Industrial District to amended Limited "M-1" Light Industrial District classification:

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:

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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 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) 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 the Property shall be limited to a maximum of 35 feet.

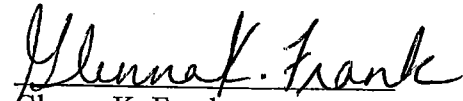
SOA

- (3) Any further expansion of existing buildings or construction of new buildings on the Property 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. 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:



Glenna K. Frank
Assistant City Attorney

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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: Commercial Bag & Textile, Inc. (Owner)
 Grantee's Name: City of Des Moines, Iowa
 Legal Description: (Herein "Property")

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.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby state, warrant and agree as follows:

1. That Commercial Bag & Textile, Inc., is the sole titleholder of the Property locally known as 1244 2nd Avenue and legally described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from Limited "M-1" Light Industrial District to amended Limited "M-1" Light Industrial District classification, I 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) 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 the Property shall be limited to a maximum of 35 feet.

(3) Any further expansion of existing buildings or construction of new buildings on the Property 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.

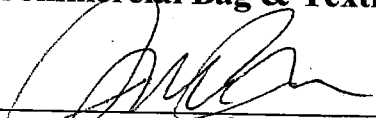
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from amended Limited "M-1" Light Industrial District classification, 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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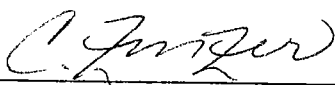
Commereial Bag & Textile, Inc.



By: Julie A. Bassman
Its: President

State of Iowa)
) ss:
County of Polk)

This record was acknowledged before me on 2/13, 2017 by Julie A Bassman
as President of Commercial Bag & Textile, Inc.



Notary Public in the State of Iowa

