

**CITY ATTORNEY'S FIRST DRAFT 08/18/2023**

**DRAFT ORDINANCE NO. 23-042**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to land use and zoning for the moratorium study area that was instituted through Ordinances 1761, 1767 and 1771 (Exhibit A), amending chapters 18.05 and 18.10 of the Des Moines Municipal Code (DMMC) to effectuate land use and zoning reclassifications for tax parcels 0922049075 and 0922049092, and a portion of Washington State Department of Transportation right of way (tax parcel 0922045999) and establish an 'Innovation Overlay District' in a portion of the B-P Zone, amending chapter 18.52 DMMC for permitted uses in the B-P Zone, and amending chapter 18.105 DMMC to establish 'Innovation Overlay District' development standards.

**WHEREAS**, on October 27, 2022, the Des Moines City Council instituted an emergency six-month moratorium prohibiting the submission or acceptance of development applications for new development within an area comprised of 73 acres, located in the business park area south of South 216<sup>th</sup> Street, that includes properties zoned Business Park (B-P), Residential Multifamily 2,400 (RM-2,400), Residential Single Family 8,400 (RS-8,400), and Suburban Estates (R-SE) to enable the City to study the highest and best use for this area in consideration of Des Moines' 2044 growth targets, Countywide Planning Policies, VISION 2050, and the periodic review and update to the Des Moines comprehensive plan and development regulations, and

**WHEREAS**, pursuant to Section 36.70A.390 and Section 35A.63.220 of the Revised Code of Washington on December 8, 2022, the Des Moines City Council held a public hearing within sixty days of the passage of Ordinance 1761 and the City Council enacted Ordinance 1767, stating findings of facts and conclusions in support of the continued maintenance of the moratorium for a period of six months until April 27, 2023, and

**WHEREAS**, pursuant to Section 36.70A.390 and Section 35A.63.220 of the Revised Code of Washington, the City Council held a public hearing and enacted Ordinance 1771 in support of renewing the moratorium for a period of six months until October 26, 2023, and

**WHEREAS**, the City's consultant team and City staff have completed the necessary studies for the Moratorium Area that informed the land use and zoning amendments proposed by this Ordinance, and

**WHEREAS**, the amendments proposed by this Ordinance have been processed in accordance with the SEPA requirements established by chapter 197-11 WAC, and

**WHEREAS**, land use and zoning amendments proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

**WHEREAS**, pursuant to DMMC 18.20.210 amendments to the Comprehensive Plan and Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment, and

**WHEREAS**, notice of the public hearing was provided on August 18, 2023 in accordance with the DMMC, and

**WHEREAS**, a public hearing was held on September 7, 2023 where all persons wishing to be heard were heard, and

**WHEREAS**, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the preservation of the public health, safety and welfare; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Findings and Conclusions.** The Council adopts all of the "whereas" sections, Definitions and Findings instituted through Ordinance 1761, Ordinance 1767 and Ordinance 1771 and all of the "whereas" sections in this Ordinance to support the amendments proposed by this ordinance, as well as the following:

(1) The moratorium study was completed as part of the periodic review of the Des Moines Comprehensive Plan, and is funded by the GMA Update Grant from the Washington State Department of Commerce.

(2) Key considerations influencing this work include Puget Sound Regional Council's VISION 2050, Countywide Planning Policies, and Des Moines' 2044 growth targets (3,800 housing units and 2,380 jobs).

(3) The city instituted the moratorium to study and evaluate land use options, to ascertain economic impacts of potential new zoning dynamics, and to then make a recommendation to City Council as to how to proceed in the soundest manner assuring balanced options.

(4) In order to ascertain economic impacts of potential new zoning dynamics, the City engaged ECONorthwest, a member of the AHBL consultant team, to complete a Market Analysis and Prototype Feasibility study of the Moratorium Area that aimed to answer three primary questions:

(a) What types of development are most likely to locate in the study area given current zoning and current near-term market conditions?

(b) What are the implications of those development types for the city to meet the employment targets outlined in the King County Buildable Lands Report?

(c) What tools might the city employ to better assure development in the moratorium area meets city objectives?

(5) ECONorthwest analyzed the financial feasibility of nine development types that could potentially occur in the Moratorium Study Area and the market analysis finds that most development types tested are financially feasible noting the following key findings that support the proposed land use and zoning amendments:

(a) The Townhome development type was the most financially feasible development type analyzed in this study, which is consistent with similar studies ECONorthwest conducted in the region.

(b) Multifamily development is not as financially feasible as townhomes given current market dynamics, but it is far denser and improves the likelihood for Des Moines to meet its housing targets.

(c) The industrial and manufacturing development that has most recently occurred within the Des Moines Business Park have low employment densities; given limited employment land, Des Moines will need to achieve higher employment densities to meet its employment targets.

(d) Given recent development in the Business Park and some of the new companies who have located within the study area, there is demonstrated demand for commercial uses in this part of the city.

(6) The Moratorium Area provides an opportunity for the City to develop, in partnership with other public resources and private investment, a Center for Excellence and Innovation District that supports economic diversification, small business development, entrepreneurship, job creation, social equity and environmental sustainability and provides the following benefits:

(a) An innovation district is a place-based urban development strategy that aims to regenerate an under-performing

area into a desirable location for innovative and creative companies and workers.

(b) Additional opportunities exist to develop workforce housing, to encourage owner occupied housing and enhance and protect recreational opportunities.

(c) Providing for the creation of workforce, middle, and market rate housing in proximity to jobs, transit, recreation, and open space will complement the area and accomplish highest and best use.

**Sec. 2.** DMMC 18.05.050 and section 3 of Ordinance No. 1469 as amended by section 2 of Ordinance No. 1528, as amended by section 2 of Ordinance No. 1551, as amended by section 1 of Ordinance No. 1623, as amended by section 1 of Ordinance No 1664, as amended by section 1 of Ordinance No. 1712 are amended to read as follows:

**Preferred land use map designation.**

The map filed in the City Clerk's office and marked Exhibit "B" to Ordinance No. 1469 and adopted November 12, 2009, as amended by Exhibit "B" to Ordinance No. 1528, as amended by Exhibit "B" to Ordinance No. 1551, as amended by Exhibit "B" to Ordinance No. 1623, as amended by Exhibit "B" to Ordinance No. 1664, as amended by Exhibit "B" to Ordinance No. 1712, as amended by Exhibit "B" to Ordinance No. 1731 is amended as described in Exhibit "B" to Draft Ordinance No. 23-042 and constitutes the comprehensive land use map, also referred to as the preferred land use map, for the City. The map referenced herein supersedes all previously adopted preferred land use maps.

**Sec. 3. Area of zone reclassification.**

The zoning classification of the following legally described property as shown on Exhibit C to Draft Ordinance No. 23-042 is amended from B-P Business Park Zone to RM-2,400 Residential Multifamily 2,400 Zone:

PARCEL "0922049075"

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMEETE MERIDIAN, IN KING COUNTY, DESCRIBED AS FOLLOWS:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER LESS THE SOUTH 10 FEET THEREOF AND EXCEPT COUNTY ROAD LESS ALL C/M.

Parcel "0922049092"

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMEETE MERIDIAN, IN KING COUNTY, DESCRIBED AS FOLLOWS:

THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, LESS COUNTY ROAD LESS C/M RGTS.

Parcel "0922045999"

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, IN TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMEETE MERIDIAN, IN KING COUNTY, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION STATE ROUTE 509 RIGHT OF WAY LOCATED SOUTH OF AND ABUTTING SOUTH 216<sup>TH</sup> STREET THAT IS BOUNDED BY PARCEL 0922049183 ON THE WEST, THE SOUTH 216<sup>TH</sup> STREET RIGHT OF WAY ON THE NORTH, THE UNDEVELOPED 16<sup>TH</sup> AVENUE SOUTH CITY RIGHT OF WAY ON THE EAST AND THE UNDEVELOPED SOUTH 218<sup>TH</sup> STREET EXTENSION RIGHT OF WAY ON THE SOUTH.

**Sec. 4.** DMMC 18.52.010B, and those parts of the Commercial Use Chart and section 133 of Ordinance 1591 as amended by section 12 of Ordinance 1601 as amended by section 8 of Ordinance 1618A as amended by section 2 of Ordinance 1644 as amended by Section 1 of

Ordinance 1645 as amended by section 8 of Ordinance 1655 as amended by section 4 of Ordinance 1656 as amended by section 2 of Ordinance 1661 as amended by section 2 of Ordinance 1669 as amended by section 1 of Ordinance 1672 as amended by section 3 of Ordinance 1697 as amended by section 1 of Ordinance 1701 as amended by section 2 of Ordinance 1714 as amended by section 1 of Ordinance 1719 as amended by section 9 of Ordinance 1737 as amended by section 3 of Ordinance 1750, shall be amended to read as follows:

<b>Use is:</b>	NC	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
<b>P: Permitted</b>									
<b>P/L: Permitted, but with special limitations</b>									
<b>CUP: Conditional use review required</b>									
<b>UUP: Unclassified use review required</b>									

Automobile, parking	P/L <sub>[5]</sub>		P <sub>[93]</sub>	P/L <sub>[16]</sub> [20]	P/L <sub>[22]</sub> ]	P	P	P/L <sub>[54]</sub>	P/L <sub>[72]</sub>
Self-storage/ mini-warehouse leasing			P/L <sub>[93]</sub>				P/L [44]	P/L [62]	
Transportation and wholesale trade			P/L <sub>[11, 93]</sub>						
Warehouse distribution centers, home deliveries			P/L <sub>[93]</sub>			P	P/L <sub>[52. 5]</sub>		

93. Uses shall be limited to B-P Zoned properties located north of S. 216th Street.

**Sec. 5.** DMMC 18.105.070, and section 263 of Ordinance 1591 as amended by section 12 of Ordinance 1655 as amended by section 1 of Ordinance 1673 are hereby amended to read as follows:

...

(16) Development proposals within the Innovation Overlay Districts shall:

(a) Recognize the distinct physical characteristics of the individual Innovation Overlay District and enable new development, infill, and redevelopment that will complement and enhance those characteristics, support small business development



and entrepreneurship, and provide the support systems such as education, training and workforce housing.

(b) Increase opportunities for small business development in order to:

(i) Create greater efficiencies in land use;

(ii) Promote a more efficient use of infrastructure in order to reduce associated costs;

(iii) Create opportunities to fulfill some daily tasks without the use of an automobile; and

(iv) Support alternative transportation (non-motorized and bus transit).

(c) Promote context sensitive massing, proportion, positioning, height, streetscape elements, and landscaping.

**Sec. 6. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

**Sec. 7. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this  
\_\_\_\_ day of \_\_\_\_\_ and signed in authentication thereof this  
\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published: \_\_\_\_\_

# Moratorium Study Area



S 216TH ST

S 220TH ST

24TH AVE S

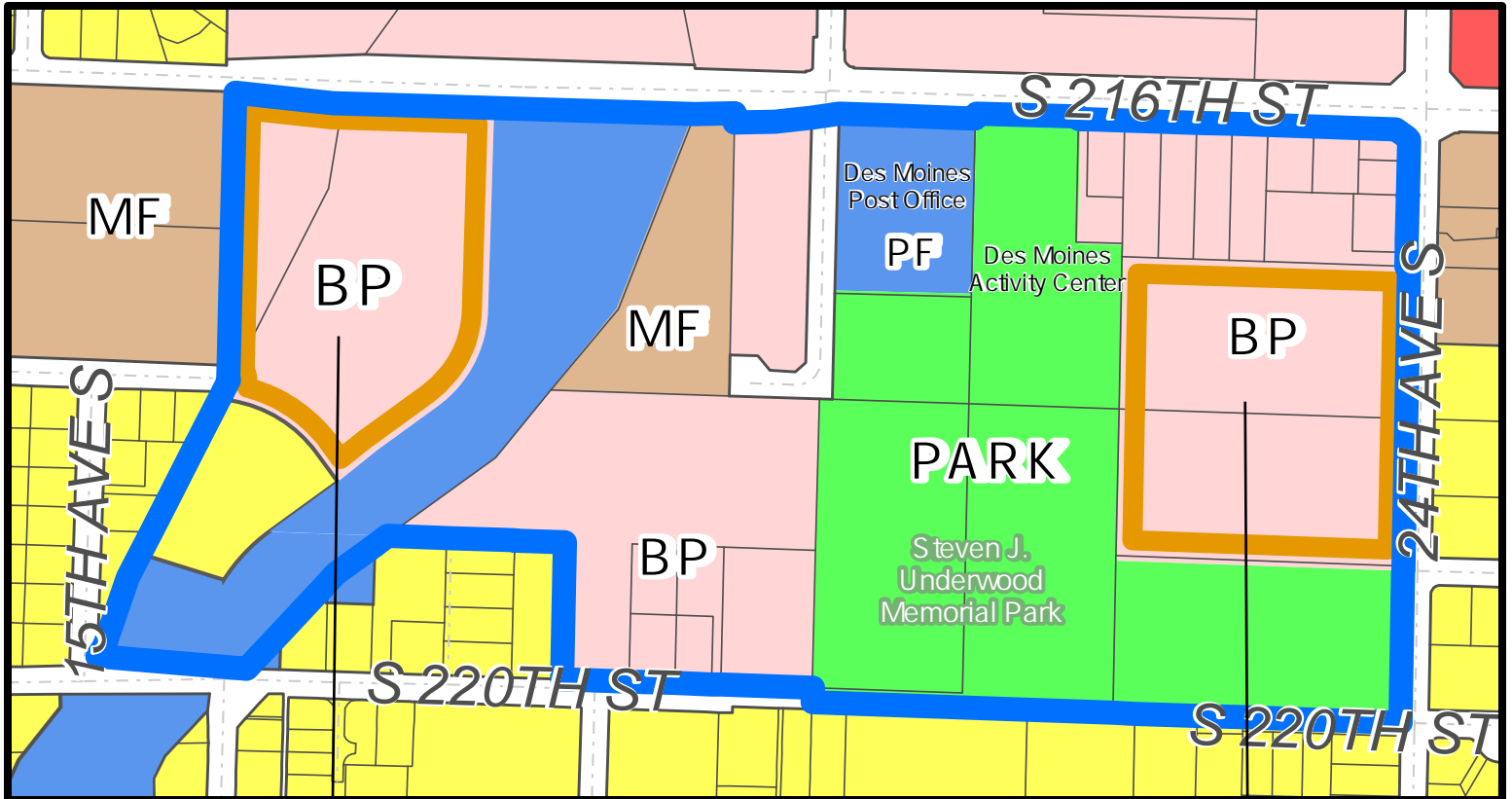
S 223RD ST

 Study Area

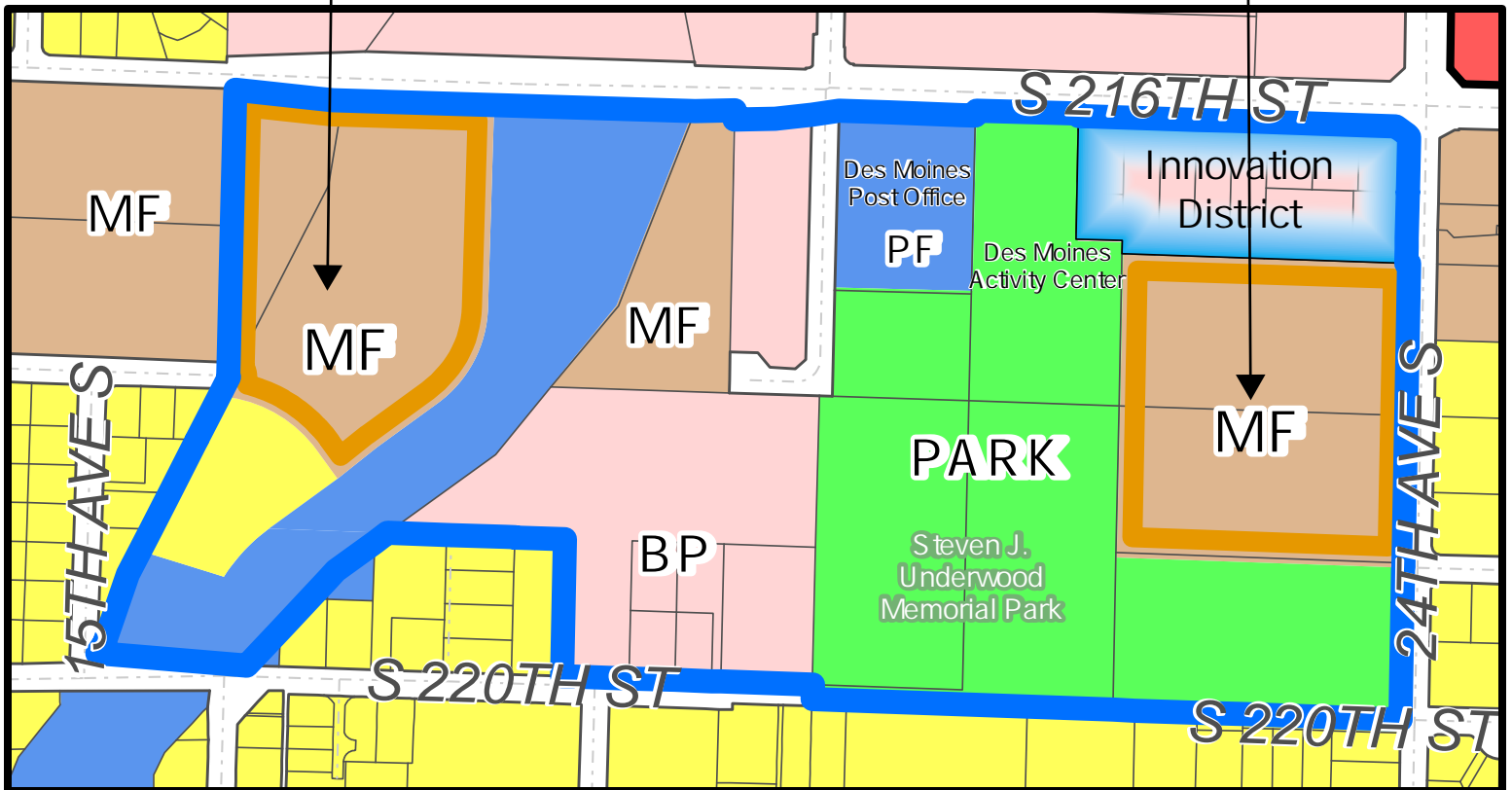


# Exhibit B

## Proposed Land Use Amendments

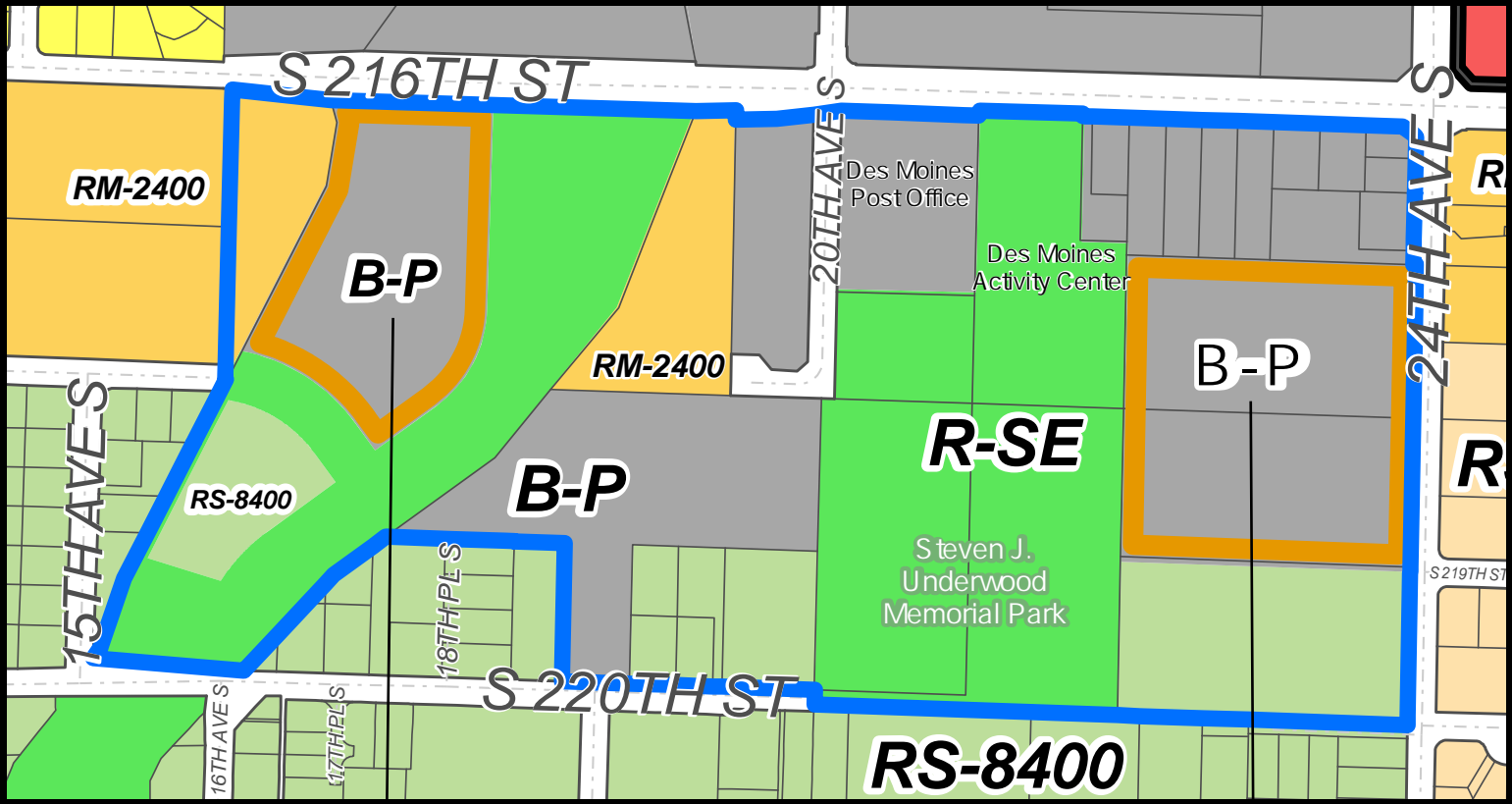


Reclassify from BP - Business Park to MF - Multi-family



# Exhibit C

## Proposed Zoning Amendments



Reclassify from B-P - Business Park to  
RM-2,400 - Residential Multi-Family 2,400

