

★ Roll Call Number

Agenda Item Number

53A

Date April 24, 2006

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 9450 County Line Road from the "A-1 Agricultural District to a Limited "C-1" Neighborhood Retail Commercial District classification",

presented.

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

FORM APPROVED:

(First of three required readings)

Roger K. Brown
 Roger K. Brown

Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
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.

MOTION CARRIED

APPROVED

 Mayor

 City Clerk

53A

Prepared by: Roger K. Brown, Assist City Atty, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4541
 Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309
 Title of Document: City of Des Moines, Ordinance No. _____
 Legal Description: See below on this page.

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 9450 County Line Road from the "A-1 Agricultural District to a Limited "C-1" Neighborhood Retail 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 9450 County Line Road, more fully described as follows, from the "A-1 Agricultural District to a Limited "C-1" Neighborhood Retail Commercial District classification:

Lot 1, Hardy's Acres Plat 1, an Official Plat, all now included in and forming a part of the City of Des Moines, Warren County, Iowa (herein the "Property").

Sec. 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

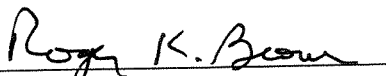
Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- A. Any commercial development of the Property shall be in substantial conformance with a site plan submitted for review and approval by the City Plan and Zoning Commission.
- B. The following uses of structures and land shall be prohibited upon the Property:
 - 1) Automotive and motorcycle accessory and parts stores;
 - 2) Gas stations;
 - 3) Package goods stores for the sale of alcoholic beverages;
 - 4) Pawn shops;
 - 5) Small engine repairs;
 - 6) Theaters and places of public assembly; and,
 - 7) Check cashing and title loan businesses.

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

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of the vicinity map, this ordinance, proof of publication of this ordinance, and the Acceptance of Rezoning Ordinance signed by all owners of the Property, to be properly filed in the office of the **Warren County Recorder**.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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53A

Prepared by: Roger K. Brown, Assistant City Atty, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 515/283-4130

Re: Lot 1, Hardy's Acres Plat 1, an Official Plat, all now included in and forming a part of the City of Des Moines, Warren County, Iowa (hereinafter referred to as the "Property").

ACCEPTANCE OF REZONING ORDINANCE

The undersigned Larry L. Hibbs and Kum S. Hibbs, hereby state, warrant and agree as follows:

(1) That we are the sole owners of the Property in the vicinity of 9450 County Line Road, more specifically described above.

(2) That in the event the City of Des Moines, Iowa, acts to rezone the Property from the "A-1 Agricultural District to a Limited "C-1" Neighborhood Retail Commercial District classification, 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:

- A. Any commercial development of the Property shall be in substantial conformance with a site plan submitted for review and approval by the City Plan and Zoning Commission.
- B. The following uses of structures and land shall be prohibited upon the Property:
 - 1) Automotive and motorcycle accessory and parts stores;
 - 2) Gas stations;
 - 3) Package goods stores for the sale of alcoholic beverages;
 - 4) Pawn shops;
 - 5) Small engine repairs;
 - 6) Theaters and places of public assembly; and,
 - 7) Check cashing and title loan businesses.

(3) That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited "C-1", 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.

Larry L. Hibbs
Larry L. Hibbs

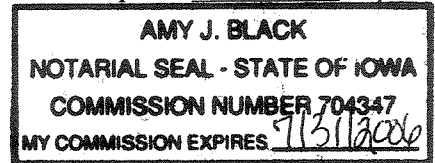
Kum S. Hibbs
Kum S. Hibbs

STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this 17th day of April, 2006, before me, the undersigned a Notary Public in and for Warren County, Iowa, personally appeared **Larry L. Hibbs**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Amy J. Black
Notary Public

My commission expires: 7/31/2006



STATE OF IOWA)
) ss:
COUNTY OF POLK)

BE IT REMEMBERED that on this 17th day of April, 2006, before me, the undersigned a Notary Public in and for Warren County, Iowa, personally appeared **Kum S. Hibbs**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.

Amy J. Black
Notary Public

My commission expires: 7/31/2006

