

Date June 14, 2010

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 6, 2010, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a City Council Initiated request to rezone property located at 4506 Southwest 9th Street, from Limited "C-2" General Retail and Highway Oriented Commercial District to "C-1" Neighborhood Retail Commercial District.

The subject property is more specifically described as follows:

South 165 feet of the East 125 feet of Lot 20, Amend Place, an Official Plat, and a Triangular piece of Lot C, Amend Place, East of and adjoining said Lot 20, Amend Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on June 28, 2010, at which time the City Council will hear both those who oppose and those who favor the proposal.

That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

FORM APPROVED: MOVED by _____ to adopt.


Michael F. Kelley
Assistant City Attorney

(ZON2010-00056)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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.

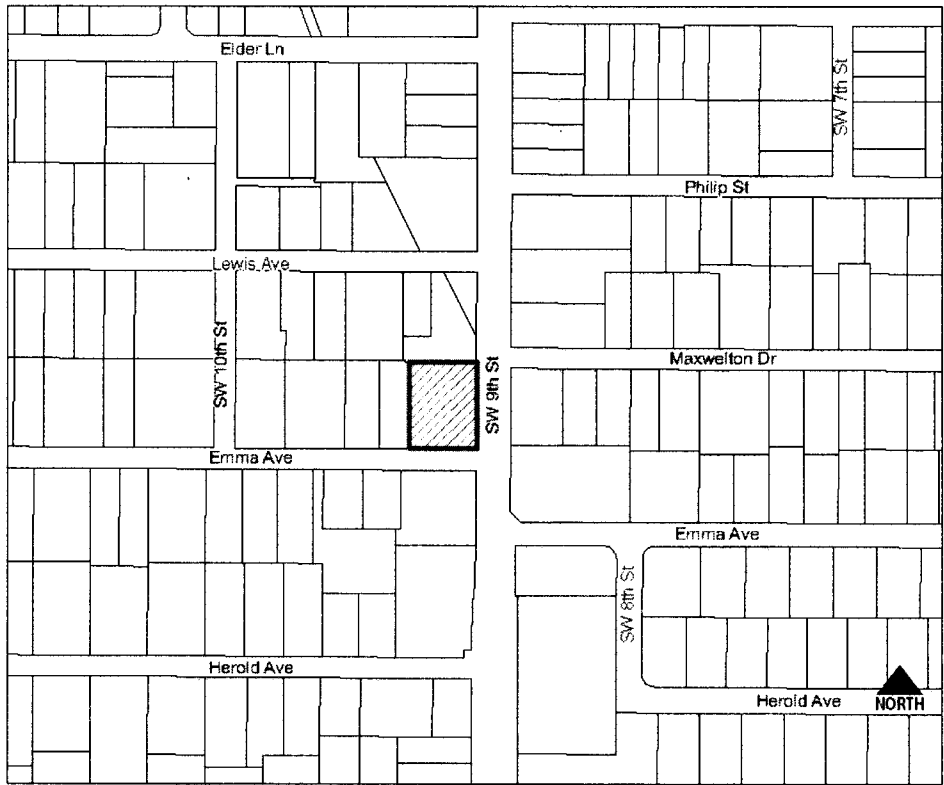
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

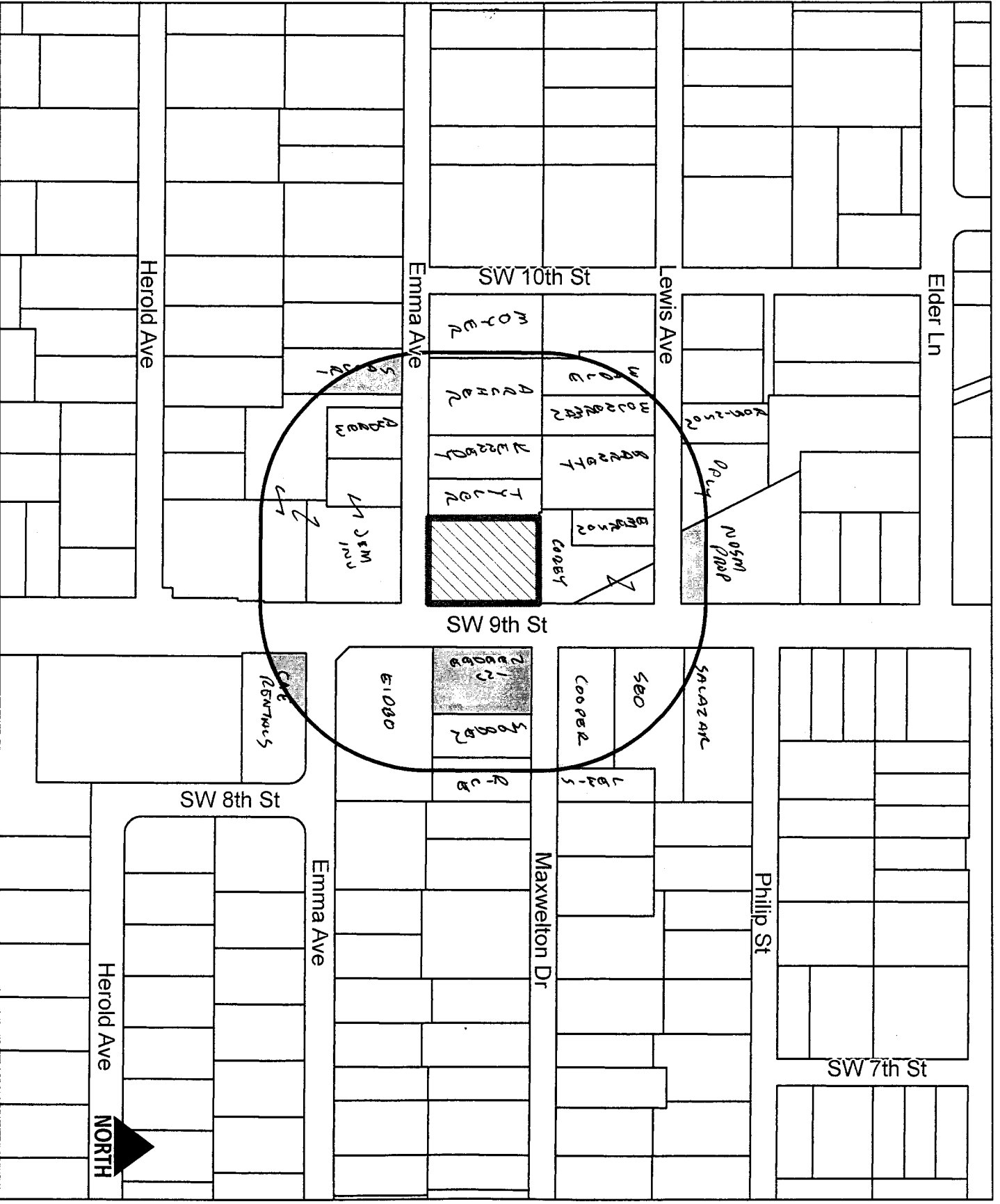
City Clerk

City Council Initiated request to rezone property located at 4506 Southwest 9 th Street. The property is owned by David L. Holmes (title holder) with Ronald and Sandra Brenizer recorded as contract buyers				File # ZON2010-00056	
Description of Action	Rezone property from Limited "C-2" General Retail and Highway Oriented Commercial District to "C-1" Neighborhood Retail Commercial District.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2035 Transportation Plan	SW 9 th Street from the Raccoon River to Army Post Road to widen from 4 lanes undivided to 5 lanes undivided				
Current Zoning District	Limited "C-2" General Retail and Highway Oriented Commercial District				
Proposed Zoning District	"C-1" Neighborhood Retail Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	5	0			
Outside Area					
Plan and Zoning Commission Action	Approval	12-0-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

City Council Initiated - 4506 SW 9th Street

ZON2010-00056





Date _____

Agenda Item 25

Roll Call # _____

June 11, 2010

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held May 6, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	X			
Joel Huston	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin	X			
Brian Millard			X	
William Page	X			
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of a City Council initiated request to find the rezoning for property located at 4506 Southwest 9th Street in conformance with the existing Des Moines' 2020 Community Character Plan's future land use designation of Commercial: Auto-Oriented, Small-Scale Strip Commercial; and to approve the requested rezoning with the provision that the recommendation will not be forwarded to the City Council until the meeting of June 14, 2010 for receipt and setting of a hearing for June 28, 2010. If the Zoning Officer determines that the property has come into compliance with the current conditions of Zoning prior to that meeting, the rezoning recommendation shall be withdrawn.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning with the recommended conditions be found in conformance with the Des Moines' 2020 Community Character Plan's future land use designation of Commercial: Auto-Oriented, Small-Scale Strip Commercial.



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

Part B) Staff recommends approval of the requested rezoning with the provision that the recommendation will not be forwarded to the City Council until the meeting of June 14, 2010 for receipt and setting of a hearing for June 28, 2010; and if the Zoning Officer determines that the property has come into compliance with the current conditions of Zoning prior to that meeting, the rezoning recommendation shall be withdrawn.

Written Responses

5 In Favor
0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The City Council directed that rezoning of the property to the “C-1” Neighborhood Retail District be initiated in the event that the property was not brought into conformance with the Zoning conditions approved on May 4, 2009 for allowance of a contractor’s business location.
2. **Size of Site:** 20,556 square feet (0.47 acres).
3. **Existing Zoning (site):** Limited “C-2” General Retail and Highway Oriented Commercial.
4. **Existing Land Use (site):** “Brother’s Gutters” contractor business office. The building was originally developed for a full-service gas station.
5. **Adjacent Land Use and Zoning:**
 - North* – “C-1”, Use is vehicle display lot.
 - South* – “C-1”, Use is office building.
 - East* – “C-1”, Uses are a Papa John’s pizza delivery restaurant; and a commercial center with an insurance office, pharmacy, and medical clinic.
 - West* – “R1-60”, Use is a two-family dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the Southwest 9th Street Commercial Corridor on the northwest corner of the intersection with Emma Avenue.
7. **Applicable Recognized Neighborhood(s):** Watrous South Neighborhood.
8. **Relevant Zoning History:** The City Council rezoned the property from “C-1” to “C-1A” on February 3, 1997. This included the approval of a reuse plan that restricted the use of the property to “C-1” permitted uses and auto glass repair use only. On May 4, 2009 the City Council rezoned the property to a Limited “C-2” District subject to the following conditions:

- A. Prohibit the use of the property for adult entertainment business, automobile establishments for display, hire, rental or sales, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, and taverns and night clubs.
- B. Conformance with current Site Plan requirements, including landscaping standards and paving of all off-street parking; the property shall be brought into conformance with an approved Site Plan to the extent it does not eliminate minimum required parking and maneuvering.
- C. Enclose and gate all outdoor trash receptacles with an enclosure built of block, stone, masonry or other material compatible with the primary building, and with 100% opaque metal gates.
- D. Prohibit storage of materials or equipment outside of a building.
- E. That the City Council will initiate rezoning a C-1 district classification in the event the property is not brought into compliance with current Site Plan regulations and all other zoning conditions on or before October 31, 2009.

9. 2020 Community Character Land Use Plan Designation: Commercial: Auto-Oriented, Small-Scale Strip Commercial.

10. Applicable Regulations: The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Site Plan: After approval of the Limited "C-2" rezoning of the property on May 4, 2009, the business operator submitted a Site Plan for consideration on October 14, 2009. Site Plan review staff responded with first submittal comments in a letter to the business owner's civil engineer on November 2, 2009. The engineer resubmitted the Site Plan on December 8, 2009 with review staff sending a letter on December 11, 2009 to the engineer indicating that the Site Plan could be approved with a final Mylar submittal correcting a few deficiencies. These included collecting necessary site review fees, provision of a trash enclosure design elevation in compliance with the Zoning condition, and minor revision to increase plant material necessary to comply with landscaping standards.

There was a discrepancy on the part of staff between two review letters as to what was necessary for the trash enclosure. This was due to confusion between Zoning changes that had occurred in the trash enclosure requirements subsequent to the original Site Plan submittal and the language of the Zoning condition approved by the Council. Permits for the required fencing and trash enclosure were issued on April 9, 2010. Recently the civil engineer resubmitted the Site Plan on Mylar and was approved on

April 15, 2010. Recent site visits by staff indicates that the owner and business operator have initiated work under these permits and Site Plan approvals.

2. **2020 Community Character Plan:** Staff recommends that the rezoning to the “C-1” Neighborhood Retail Commercial District be found within the scale of development and uses intended by the Commercial: Auto-Oriented, Small-Scale Strip Commercial designation.
3. **Staff Rationale:** Staff believes that the owner of the property and the operator of the contract business have had adequate time to comply with the Conditions of the rezoning approved on May 4, 2009. Staff recommends that the City proceed with the initiated rezoning while also allowing the business owner and property owner an additional 45 days to comply with the Zoning conditions before it is brought to a hearing. If the business operator and owner fail to comply within that timeframe, the City is on track to proceed with a public hearing of the City Council on June 28, 2010.

SUMMARY OF DISCUSSION

Mike Ludwig presented staff report and recommendation.

Candace Linville 4506 SW 9th stated the reason the equipment shown in the pictures by staff was on the outside of the property was because they had a building permit to put up a fence and they were digging for the dumpster enclosure. She stated that there is no problem to be in compliance in sixty days provided they get assistance from the City in responding to the request to have the inspectors come through. She submitted a copy of a timeline in which she states that she has contacted staff and tried to get the site into conformance.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in opposition of application

Ron Brenizer 9043 Woodmayr Drive, Norwalk showed pictures of their progress and states that they need to get inspections for the dumpster enclosure. He showed progress of other work they have been doing and plans to be in compliance before their time is up.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard asked if the applicant was as close to completion as they say.

Mike Ludwig stated he would have to consult with the Zoning Enforcement Officer. He pointed out the zoning conditions that Council approved required that “C-1” rezoning be initiated if the property was not brought into conformance with the zoning conditions by October 31, 2009. The first site plan was submitted on October 14, 2009.

COMMISSION ACTION

Greg Jones moved staff recommendation to find the City initiated rezoning in conformance with the Des Moines’ 2020 Community Character Plan’s future land use designation of Commercial: Auto-Oriented, Small-Scale Strip Commercial; and to approve the requested rezoning with the provision that the recommendation will not be forwarded to the City

Council until the meeting of June 14, 2010 for receipt and setting of a hearing for June 28, 2010. If the Zoning Officer determines that the property has come into compliance with the current conditions of Zoning prior to that meeting, the rezoning recommendation shall be withdrawn.

Motion passed 12-0-1 (Brian Millard abstained)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Item 2010-00056 Date 7-29-10

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
MAY 03 2010
DEPARTMENT

Print Name NORM PROPERTIES

Signature _____

Address 4214 SW 9th ST

Reason for opposing or approving this request may be listed below:

Item 2010-00056 Date April 26, 2010 25

I (am) (am not) in favor of the request.

(Circle One)

Print Name Joseph L. Coco
Ch E Rentals

Signature Joseph L. Coco

Address 4601 SW 9th St
Des Moines IA 50315

Reason for opposing or approving this request may be listed below:

I approve for a change to C-1 as the
current owner has not complied with
the previous requests and is not currently
adhering to the C-2 General Retail and
Highway Oriented Commercial District.

Item 2010-00056 Date 4-27-10

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT DEPARTMENT
APR 29 2010
Print Name JOAN LEWIS
Signature Joan Lewis

Address 827 Maxwellton Dr

Reason for opposing or approving this request may be listed below:

They keep the place cleaned up

Item 2010-00056 Date 4-27-10

I (am) (am not) in favor of the request.

(Circle One)

ZEEDEE Investments, L.C.

Print Name Darin E. Ferguson

RECEIVED
COMMUNITY DEVELOPMENT

Signature [Signature]

Address 4503 S.W. 9th

APR 29 2010

Reason for opposing or approving this request may be listed below:

DEPARTMENT

Item 2010-00056 Date 4 25 10

I (am) (am not) in favor of the request.

(Circle One)

Print Name Sam A. Saluri

RECEIVED
COMMUNITY DEVELOPMENT

Signature Sam a Saluri

Address 920 EMMA AVE

APR 29 2010

Reason for opposing or approving this request may be listed below:

DEPARTMENT

POB 365, URB. IA 50323

The current owners of said property's
past on going actions, & lack of care
are reason enough to down zone,
stick to your guns, do your job
clean up the neighborhood