

Date June 22, 2009

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 1201 East Diehl Avenue from the R1-60 One-Family Low-Density Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District, to allow an expansion of the existing outdoor merchandise area and 23,760 square-foot roofed garden center to the north side of the existing Menard's home improvement retail center",

presented.

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

FORM APPROVED:

(First of three required readings)



 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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

56A

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 1201 East Diehl Avenue from the R1-60 One-Family Low-Density Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District, to allow an expansion of the existing outdoor merchandise area and 23,760 square-foot roofed garden center to the north side of the existing Menard's home improvement retail center.

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 1201 East Diehl Avenue, more fully described as follows, from the R1-60 One-Family Low-Density Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District, to allow an expansion of the existing outdoor merchandise area and 23,760 square-foot roofed garden center to the north side of the existing Menard's home improvement retail center:

The West 590.20 feet of the South 100.90 feet of the North $\frac{1}{2}$, of the Northeast $\frac{1}{4}$, of the Southeast $\frac{1}{4}$ of Section 27, Township 78 North, Range 24 West of the 5th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa

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:

1. The westernmost 90 feet of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
 - b. Adult entertainment businesses;
 - c. Taverns and nightclubs;
 - d. Off-premises advertising signs; and
 - e. Package goods stores for the sale of alcoholic beverages.

3. Any commercial development on the Property shall be setback at least 55 feet from the north side property line.
4. Any commercial development on the Property shall be screened with a continuous 14-foot tall solid wall that is setback at least 55 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with no spacing between boards.
5. No outdoor storage of merchandise in the outdoor display area of the Property shall be stacked higher than the perimeter fencing.
6. Any external lighting on the Property shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
7. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
8. Any commercial expansion onto the Property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
10. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

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

Sec. 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney