

Date..... September 14, 2009

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 3, 2009, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Northern Warren Fire and Emergency Response (owner), represented by Raymond Phillips (officer), to rezone property located at 6304 SW 7th Street from a Limited "C-2" General Retail and Highway Oriented Commercial District to an amended Limited "C-2" General Retail and Highway Oriented Commercial District, subject to the applicant agreeing to the following conditions:

1. Any commercial use of the property is subject to approval of a site plan under the City's site plan policy and must include the removal of all unnecessary drive approaches with restoration of the curb and turf in the right-of-way.
2. Any commercial use of the property shall be limited to one access drive to Lally Street from the western half of the property.
3. The outdoor display or storage of merchandise and/or junk is prohibited.
4. The following uses of land and structures shall be prohibited upon the property:
 - a. Adult entertainment business.
 - b. Garages for general motor vehicle repair.
 - c. Vehicle display.
 - d. Off-premises advertising signs.
 - e. Package goods stores for sale of liquor.
 - f. Taverns/nightclubs.
 - g. Pawn shops.
 - h. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
5. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EIFS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EIFS/stucco or EIFS.
6. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.

(continued)

Date..... September 14, 2009

-2-

7. The existing communications tower must continue compliance with the following conditions as required in the Zoning Board of Adjustment Decision and Order dated June 26, 2002 so long as the tower remains:
 - a. Provision of a brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the fire station.
 - b. Provision of a landscape perimeter around the lease area comprised of 6'-8' evergreens.

The subject property is more specifically described as follows:

Lots 2, 3, 4, 5, 6, 7, 8, and 9, Block 5, Porters Replat, 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:

1. 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 September 28, 2009, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. 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.

(continued)

★ Roll Call Number

Agenda Item Number

23-II

Date September 14, 2009

-3-

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

(ZON2009-00132)

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

23-II

September 10, 2009

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 September 3, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

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

APPROVAL of a request from Northern Warren Fire and Emergency Response (owner) represented by Raymond Phillips (officer) that the proposed rezoning be found in conformance with the Des Moines' 2020 Community Character Plan future land use map designation of Commercial: Auto-Oriented Small-Scale Strip Development; and to approve the requested rezoning subject to the applicant agreeing to the following conditions: ZON2009-00132

1. Any commercial use of the property is subject to approval of a site plan under the City's site plan policy and must include the removal of all unnecessary drive approaches with restoration of the curb and turf in the right-of-way.
2. Any commercial use of the property shall be limited to one access drive to Lally Street from the western half of the property.
3. The outdoor display or storage of merchandise and/or junk is prohibited.
4. Prohibit use of the property for the following uses:
 - a. Adult entertainment business.
 - b. Garages for general motor vehicle repair.
 - c. Vehicle display.
 - d. Off-premises advertising signs.



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

- e. Package goods stores for sale of liquor.
 - f. Taverns/nightclubs.
 - g. Pawn shops.
 - h. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
5. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EIFS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EIFS/stucco or EIFS.
 6. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.
 7. The existing communications tower must continue compliance with the following conditions as required in the Zoning Board of Adjustment Decision and Order dated June 26, 2002 so long as the tower remains:
 - a. Provision of a brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the fire station.
 - b. Provision of a landscape perimeter around the lease area comprised of 6'-8' evergreens.

Written Responses

- 1 In Favor
- 4 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the requested rezoning subject to the applicant agreeing to the following conditions:

1. Any commercial use of the property is subject to approval of a site plan under the City's site plan policy and must include the removal of all unnecessary drive approaches with restoration of the curb and turf in the right-of-way.
2. Any commercial use of the property shall be limited to one access drive to Lally Street from the western half of the property.
3. The outdoor display or storage of merchandise and/or junk is prohibited.
4. Prohibit use of the property for the following uses:
 - a. Adult entertainment business.
 - b. Garages for general motor vehicle repair.
 - c. Vehicle display.
 - d. Off-premises advertising signs.
 - e. Package goods stores for sale of liquor.
 - f. Taverns/nightclubs.
 - g. Pawn shops.
 - h. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.

5. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EIFS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EIFS/stucco or EIFS.
6. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.
7. The existing communications tower must continue compliance with the following conditions as required in the Zoning Board of Adjustment Decision and Order dated June 26, 2002 so long as the tower remains:
 - a. Provision of a brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the fire station.
 - b. Provision of a landscape perimeter around the lease area comprised of 6'-8' evergreens.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant wishes to sell the subject property to a lawnmower repair business. The property was rezoned to a Limited "C-2" District designation on January 22, 2007. This rezoning included the condition that driveway access to Lally Street would be prohibited for any future commercial use of the property. The applicant would now like to be able to have one driveway to Lally Street to allow for a larger landscaped area.
2. **Size of Site:** 150' x 200.7' or 30,105 square feet (0.69 acres).
3. **Existing Zoning (site):** Limited "C-2" General Retail and Highway-Oriented Commercial District.
4. **Existing Land Use (site):** The site contains a fire station and a 110'-tall communications tower with a 12' x 20' mechanical building.
5. **Adjacent Land Use and Zoning:**

North - "R1-60", Uses consist of single-family dwellings.

South - "C-2", Use is automated carwash facility.

East - "R1-60", Uses consist of single-family dwellings.

West - "C-2", Uses consist of a single-family dwelling and commercial development.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the Army Post Road major commercial corridor as it transitions north to a single-family residential neighborhood.
7. **Applicable Recognized Neighborhood:** None.
8. **Relevant Zoning History:** On January 22, 2007, the City Council approved Ordinance Number 14,625 rezoning the subject property and the property to the south from "R1-60" One-Family

Low Density Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District subject to the following conditions.

- A. *The following uses of structures and land shall be prohibited upon the Property:*
- 1) *Adult entertainment business.*
 - 2) *Garage for general motor vehicle repair.*
 - 3) *Vehicle display, including but not limited to used car sales lot.*
 - 4) *Off-premises advertising signs.*
 - 5) *Package goods store for sale of alcoholic beverages.*
 - 6) *Taverns and nightclubs.*
 - 7) *Pawn shops.*
 - 8) *Businesses that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.*
- B. *Any commercial use of the Property shall be in conformance with an approved site plan that eliminates and prohibits vehicular access between the Property and Lally Street.*
- C. *Any building upon the Property used for a commercial use shall have 75% of all non-glazed exterior wall surfaces covered with brick, split face concrete masonry units, stone or EIFS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EIFS/stucco or EIFS.*
- D. *Any freestanding signs upon the Property shall be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.*
- E. *The existing communications tower must remain in compliance with the following conditions established in the Decision and Order of the Zoning Board of Adjustment dated June 26, 2002, for so long as the tower remains:*
- 1) *Provision of brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the primary building.*
 - 2) *Provision of a landscape perimeter around the lease area comprised of 6' to 8' tall evergreens.*

On June 26, 2002, the Zoning Board of Adjustment granted US Cellular a Conditional Use Permit for a 110'-tall communications tower on the site. The Decision and Order states the following:

Wherefore, it is ordered the application by US Cellular for a Conditional Use for a Communications Tower and Antennas and for an Exception of 8.74 acres less than the minimum required 10 acres of lot area for a communication tower that exceeds the maximum allowed district height of 35', all to allow a 110' tall communications tower with antenna and two future collocations on a 1.26 acre parcel within a 16'x35' leased area fenced with an opaque 8' cedar fence also containing a 12'x20' brick equipment shelter is granted with the following conditions:

- 1) *Brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the fire station.*
- 2) *Providing a landscape perimeter around the lease area comprised of 6'-8' evergreens.*

**Note: The 10-acre requirement is no longer applicable as the property is now zoned "C-2" District. In 2002 it was zoned "R1-60" District, which has the 10-acre minimum requirement.*

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

10. Applicable Regulations: The Commission reviews all proposals to amend zoning boundaries or regulations 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 make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Drainage/Grading:** Redevelopment of the site is subject to the review and approval of a site plan that satisfies the City's Site Plan policies, including those regarding grading and stormwater management.
- 2. Landscaping & Buffering:** Redevelopment of the site is subject to the review and approval of a site plan that satisfies the City's Site Plan policies, including the landscape standards. These require landscaped bufferyards, parking lot perimeter and interior plantings, screening from the residential properties to the north and east, and a minimum 20% open space with plantings. In addition, the existing lease area for the communications tower must continue to be screened with evergreen trees in accordance with Board of Adjustment's Decision and Order dated June 26, 2002.
- 3. Access/Traffic:** The subject property has frontage on Lally Street to the north and SW 7th Street to the east. The subject property was rezoned in conjunction with the property to the south, which has frontage on Army Post Road to the south and SW 7th Street to the east. At the time of the rezoning the property to the south was vacant and it was thought that the two parcels might be redeveloped together and be orientated primarily to Army Post Road. With the potential of a larger scale development with Army Post Road frontage, it was prudent to prohibit direct vehicle access to Lally Street in order to protect the surrounding single-family residential neighborhood. An automated carwash facility has been developed on the property to the south with no direct connections to the subject property. Since the subject property does not front Army Post Road it is reasonable to allow one access drive at the western end of the property to Lally Street.
- 4. 2020 Community Character Plan:** The proposed "C-2" General Retail and Highway-Oriented Commercial District is in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Auto-Oriented Small-Scale Strip Development. Staff believes that a Limited "C-2" District zoning classification is appropriate for the site given its location along the Army Post Road major commercial corridor as long as the conditions identified in Section III of this report are met.
- 5. Urban Design:** The existing Limited "C-2" District includes conditions pertaining to building materials and signage. These are based on design guidelines developed by the City and the South Side Revitalization Partnership for the SE 14th Street and Army Post Road corridors. The applicant is not proposing to remove these conditions.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Jacqueline Easley asked if the purpose of the rezoning had been explained to the neighbors.

Jason Van Essen stated that he had not received any phone calls from neighbors and suggested the applicant be asked if they had explained the purpose of their request to any neighbors.

JoAnne Corigliano asked if both the proposed lawnmower repair shop and the fire station were going to be located in the building.

Jason Van Essen stated that the fire station was moving out of the building.

JoAnne Corigliano asked if the lawnmower repair shop would use the whole building.

Jason Van Essen stated that he is not aware of any other proposed uses other than the lawn mower shop.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in support or opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION

Shirley Daniels moved staff recommendation that the proposed rezoning be found in conformance with the Des Moines' 2020 Community Character Plan future land use map designation of Commercial: Auto-Oriented Small-Scale Strip Development; and to approve the requested rezoning subject to the applicant agreeing to the following conditions:

1. Any commercial use of the property is subject to approval of a site plan under the City's site plan policy and must include the removal of all unnecessary drive approaches with restoration of the curb and turf in the right-of-way.
2. Any commercial use of the property shall be limited to one access drive to Lally Street from the western half of the property.
3. The outdoor display or storage of merchandise and/or junk is prohibited.
4. Prohibit use of the property for the following uses:
 - a. Adult entertainment business.
 - b. Garages for general motor vehicle repair.
 - c. Vehicle display.
 - d. Off-premises advertising signs.
 - e. Package goods stores for sale of liquor.
 - f. Taverns/nightclubs.
 - g. Pawn shops.
 - h. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
5. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EIFS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EIFS/stucco or EIFS.

6. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.
7. The existing communications tower must continue compliance with the following conditions as required in the Zoning Board of Adjustment Decision and Order dated June 26, 2002 so long as the tower remains:
 - a. Provision of a brick screening of the tower base from the south using either the equipment building or a wing wall extension, with brick to match the fire station.
 - b. Provision of a landscape perimeter around the lease area comprised of 6'-8' evergreens.

Motion passed 10-0.

Respectfully submitted,



Jason Van Essen, AICP
Senior Planner

JMV:clw

Attachment

Request from Northern Warren Fire and Emergency Response (owner) represented by Raymond Phillips (officer) to rezone property located at 6304 SW 7th Street.		File #		
		ZON2009-00132		
Description of Action	Rezone to remove a condition of the existing Limited "C-2" General Retail and Highway Oriented Commercial District that "any commercial use of the property shall be in conformance with an approved site plan that eliminates and prohibits vehicular access between the property and Lally Street," thereby allowing existing access to remain from Lally Street.			
2020 Community Character Plan	Commercial: Pedestrian-Oriented Commercial Corridor			
Horizon 2025 Transportation Plan	No Planned Improvements			
Current Zoning District	Limited "C-2" General Retail and Highway Oriented Commercial District			
Proposed Zoning District	"C-2" General Retail and Highway Oriented Commercial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	1	4		<25%
Outside Area				
Plan and Zoning Commission Action	Approval	10-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Northern Warren Fire & Emergency Response - 6304 SW 7th Street ZON2009-00132



23-17

Item # 00132 Date 8/31/09

I (am) in favor of the request.

RECEIVED

SEP 03 2009

COMMUNITY DEVELOPMENT

Print Name Larry & Renee Wamsler

Signature Renee Wamsler

Address 6301 SW 7th St. DM, IA

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

This is a residential area that we would like to see stay that. There are too many commercial businesses coming into our area.

G.W.B

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

Understand a lawn mower shop will be moving in, I am worried about the noise factor

RECEIVED

I (am) in favor of the request.

Item # 00132 Date Aug 27, 2009

Print Name Judith K. Davis

Signature Judith K. Davis

Address 615 Kelly

SEP 03 2009

COMMUNITY DEVELOPMENT

Item 2009 00132 Date 8-27-09

I (am not) in favor of the request.

RECEIVED

Print Name Ed Hoffman

Signature [Signature]

Address 712 Lally St.

AUG 31 2009

MUNITY DEVELOPMENT

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

we get lots of traffic on lally st. now & I don't feel we need more with a lawn mower repair shop at this location. would result in more noise in the area that we don't need.

Item 2009 00132 Date 8/26/09

I (am not) in favor of the request.

RECEIVED

Print Name CHRISTOPHER RODI

Signature [Signature]

Address 700 Leland Ave. Des Moines, 50315

SEP 01 2009

MUNITY DEVELOPMENT

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

MAY BE ZONED FOR APARTMENTS. THIS NEIGHBORHOOD HAS ENOUGH MULTI-HOUSED UNITS.

Item

2009

00132

Date

SEP 01 2009

DES MOINES IA IUS

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

29 AUG 2009 PM 11

(Circle One)

RECEIVED

Print Name

Lulaine Carey

SEP 01 2009

Signature

Lulaine Carey

MUNITY DEVELOP^{MT}

Address:

714 Galley

NOT A PERSON OF CONCERN AT JOHNSON

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

This is a residential area with many
children already. Adding a business in
a residential area would only cause in economic
to the current business & Hazardous to the
children. We are trying to ~~maintain~~ ^{maintain} the town
& we are not going to ~~lose~~ ^{lose} it.

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

Address 700 LEAND

Signature

Debra J. Fisher

Print Name

Debra J. Fisher

AUG 31 2009

MUNITY DEVELOP^{MT}

RECEIVED

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

Date 8.21.09

2009 00132

Item

23-A

