



**Roll Call Number**

09-1798

**Agenda Item Number**

57

**Date** ..... September 28, 2009 .....

WHEREAS, on September 14, 2009, by Roll Call No. 09-1641, it was duly resolved by the City Council that the application of North Warren Fire and Response Agency to rezone certain property, and located in the vicinity of 6304 SW 7<sup>th</sup> Street, more fully described below, be set down for hearing on September 28, 2009, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on September 17, 2009, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

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, IN POLK COUNTY, IOWA.

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 classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

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



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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.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited C-2 General Retail and Highway Oriented Commercial District are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by Meyer to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, HENSLEY, KIERNAN, MAHAFFEY, MEYER, VLASSIS, and TOTAL (7 yeas).

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.

7. M. Franklin Council Mayor

Diane Rauh City Clerk