

Date..... January 22, 2007

WHEREAS, on January 8, 2007, by Roll Call No. 07-~~038~~, it was duly resolved by the City Council that the application of Northern Warren Fire and Emergency Response Agency to rezone certain property it owns in the vicinity of 6304 SW 7th Street, more fully described below, be set down for hearing on January 22, 2007, 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 January 11, 2007, 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 through 17, Block 5, in Porter's Replat, an Official Plat, and the adjoining half of the adjoining public rights-of-way, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

from the "R1-60" One-Family Low-Density Residential District to a 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:

- 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.

(continued)

Date..... January 22, 2006

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- 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.

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.

(continued)

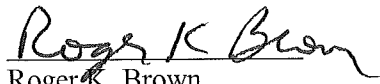
Date January 22, 2006

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

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

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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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

January 8, 2007

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 December 21, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman				X
Jeffrey Johannsen				X
Greg Jones				X
Frances Koontz				X
Kaye Lozier				X
Brian Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern				X
Tim Urban				X
Marc Wallace	X			

APPROVAL of a request from Northern Warren Fire and Emergency Response Agency (owner) represented by Raymond Phillips (President) to rezone property located at 6304 SW 7th Street from "R1-60" One-Family Low Density Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District, subject to the applicant agreeing to the following conditions: (ZON2006-00179)

1. Any commercial use of the property is subject to approval of a site plan under the City's site plan policy and must eliminate and prohibit access driveways from Lally Street.
2. The following uses of structures and land shall be prohibited:
 - 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.



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

3. 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.
4. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.
5. The existing communications tower must remain in compliance with the following conditions established in the Zoning Board of Adjustment Decision and Order dated June 26, 2002, for 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

5 In Favor

0 In Opposition

This item would not require a 6/7 vote at City Council.

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

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 eliminate and prohibit of access driveways from Lally Street.
2. 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.
3. 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.
4. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.

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5. 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 proposed rezoning would allow future commercial development on all or a portion of the site. The applicant has indicated that the existing fire station for the Northern Warren Fire and Emergency Response Agency will eventually relocate from the property to a site in Warren County. Any future division of the property would be subject to review and approval of a Plat of Survey by the Permit and Development Center.

The applicant will be seeking future vacation and conveyance of a 40'-wide strip of adjoining excess Army Post Road right-of-way that originally contained a trolley line.

2. **Size of Site:** 200' x 275' or 55,000 square feet (1.26 acres).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The site contains a fire station, a large undeveloped area, and a 110'-tall communications tower with a 12' x 20' mechanical building.
5. **Adjacent Land Use and Zoning:**

North - "R1-60", Uses include Lally Street and single-family residential.

South - "C-2", Uses include Army Post Road and a McDonald's restaurant.

East - "R1-60", Uses include SW 7th Street, Fort Des Moines Trailer Park, and a single-family dwelling.

West - "C-2", Uses include a single-family dwelling, an unoccupied restaurant, and vacant commercial land.

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:** Greater Southside Neighborhood.
8. **Relevant History:** 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.
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:** Any redevelopment of the site would be subject to 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:** Future redevelopment of the site would be subject to 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 or Parking:** The subject property has frontage along Army Post Road, SW 7th Street, and Lally Street. Staff believes that future access drives should be restricted from Lally Street in order to protect the residential character of that street. Therefore staff recommends that any commercial use of the property should be subject to approval of a site plan under the City's site plan policy and must eliminate and prohibit of access driveways from Lally Street.
4. **Traffic/Street System:** Adjoining Army Post Road can accommodate commercial redevelopment of the site.
5. **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.

Staff recommends that adult business uses, garages for general motor vehicle repair, package goods stores for sale of liquor, vehicle display, off-premises advertising signs, and taverns/nightclubs be prohibited due to the presence of residential uses near the site.

6. **Urban Design:** The City has partnered with the South Side Revitalization Partnership group in an effort to improve the quality and aesthetics of commercial development along the Southeast 14th Street and East Army Post Road Corridors. This group has drafted design guidelines for commercial development, although these guidelines have not been formally adopted by the City. While the subject property is along Army Post Road a few blocks west of the official study area, staff believes it is appropriate to request that elements of these design guidelines be made a condition of any commercial rezoning along the Army Post Road corridor.

These guidelines suggest that commercial and office buildings be designed with 75% of all non-glazed exterior wall surfaces consisting of 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.

Staff recommends that freestanding signage be limited to ground mounted or monument signs with a masonry, brick or stone pedestal compatible with the primary building material.

The south side of the base of the existing communications tower must continue to be screened with a brick base in accordance with Board of Adjustment's Decision and Order dated June 26, 2002.

SUMMARY OF DISCUSSION

There was no discussion on this item.

David Cupp moved for 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 eliminate and prohibit of access driveways from Lally Street.
2. Prohibit use of the property for the following uses:
 - a. Adult entertainment business.
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 - 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.
3. 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.
4. Any freestanding signs permitted must be ground-mounted with a brick or masonry block pedestal compatible with the primary building material.
5. 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 8-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Ludwig'.

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2006 00179

Date 12-26-06 43

I ☒ (am) (am not) in favor of the request.
(Circle One)

RECEIVED

DEC 29 2006

Print Name MICHAEL G + SUSAN C VAN

Signature Susan C Vance

Address 805 LALLY DM 50315

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

Item 2006 00179

Date 12-26-06

I ☒ (am) (am not) in favor of the request.
(Circle One)

RECEIVED

DEC 29 2006

Print Name SUSAN C VANCE

Signature Susan C Vance

Address 809 LALLY DM 50315

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

Item 2006 00179

Date DECEMBER 11, 2006

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

RECEIVED

DEC 12 2006

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Print Name DEBRA J. FISHER
Signature *Debra J. Fisher*
Address 700 LELAND

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

Item 2006 00179

Date 12-11-06

I (am) ~~(am not)~~ in favor of the request.
(Circle One)

RECEIVED

DEC 12 2006

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Print Name JUDITH KAY DAVIS
Signature *Judith Kay Davis*
Address 615 LALLY

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

Since the fire station serves Warren County they
should be in Warren County.
Commercial zone would be fine

Item 2006 00179

Date 12-13-06 43

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

(Circle One)

RECEIVED

DEC 15 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Edwin HOFFMAN

Signature Edwin Hoffman

Address 712 LALLY

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

FOR limited use ONLY. NO CAR LOTS
OR TAVERNS ETC.

Item 2006 00179

Date 12-12-06

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

(Circle One)

RECEIVED

DEC 15 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Lawrence G. Whisher

Signature Lawrence G. Whisher

Address 6301 SW 7th ST. DTK.

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