

Date April 24, 2006

WHEREAS, on April 10, 2006, by Roll Call No. 06-630, it was duly resolved by the City Council that the application of Larry Hibbs to rezone certain property he owns in the vicinity of 9450 County Line Road, more fully described below, be set down for hearing on April 24, 2006, at 5:00 P.M., in the Council Chamber of the City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on April 12, 2006, 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:

Lot 1, Hardy's Acres Plat 1, an Official Plat, all now included in and forming a part of the City of Des Moines, Warren County, Iowa.

from the "A-1 Agricultural District to a Limited "C-1" Neighborhood Retail 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. Any commercial development of the Property shall be in substantial conformance with a site plan submitted for review and approval by the City Plan and Zoning Commission.
- B. The following uses of structures and land shall be prohibited upon the Property:
  - 1) Automotive and motorcycle accessory and parts stores;
  - 2) Gas stations;
  - 3) Package goods stores for the sale of alcoholic beverages;
  - 4) Pawn shops;
  - 5) Small engine repairs;
  - 6) Theaters and places of public assembly; and,
  - 7) Check cashing and title loan businesses.

( continued )

★ **Roll Call Number**

Agenda Item Number

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Date April 24, 2006

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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-1" Neighborhood Retail 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 \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown

Assistant City Attorney

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

**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.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

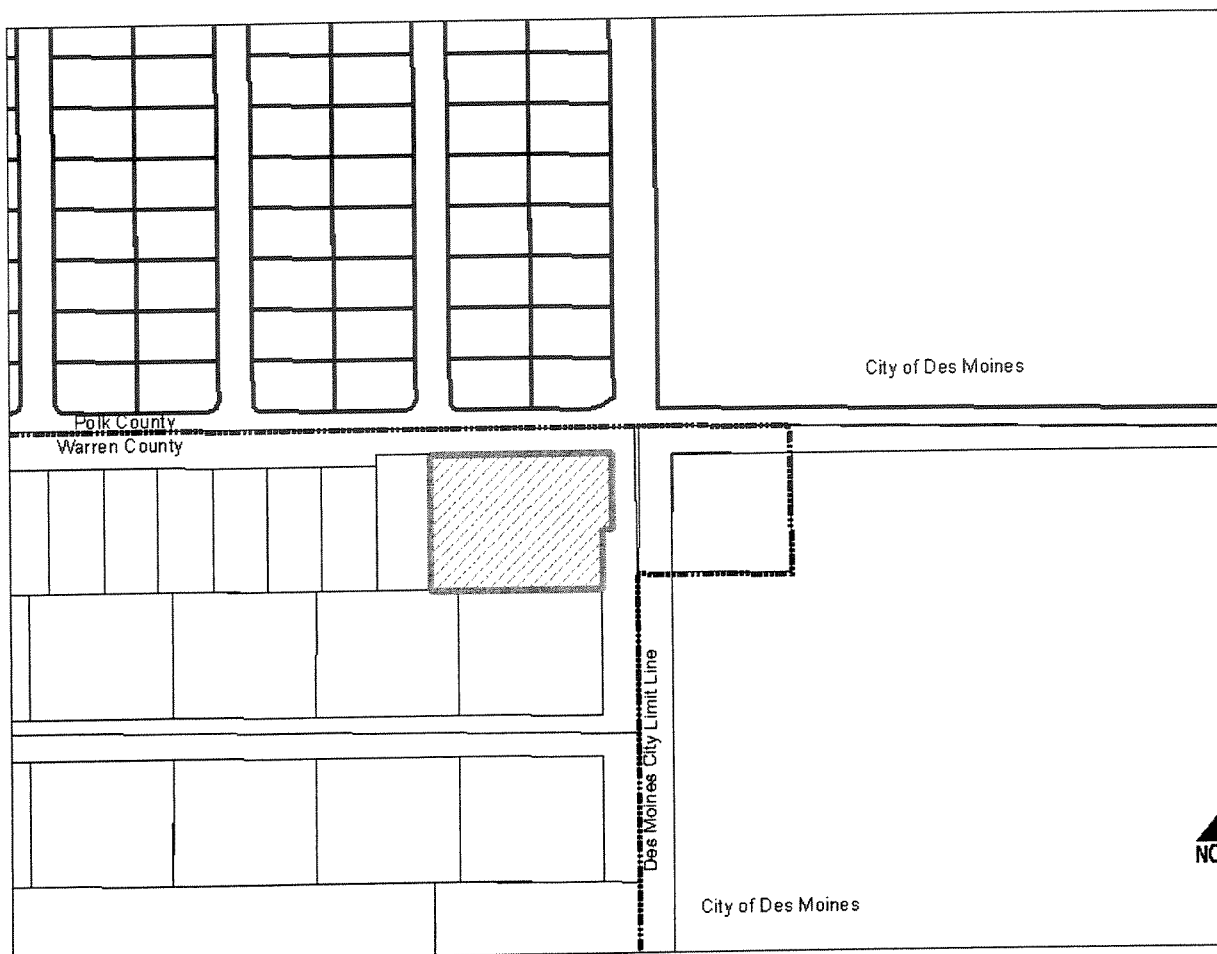
\_\_\_\_\_  
City Clerk

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Request from Larry Hibbs (Owner) represented by Clark Stewart (Agent) to rezone property located at 9450 County Line Road that has been recently annexed into the City.			File # ZON2006-00022	
<b>Description of Action</b>	Rezone property from "A-1" Agricultural District to "C-1" Neighborhood Retail Commercial District to allow development of the property for a mixed-use center having office/retail and multiple-family residential use.			
<b>2020 Community Character Plan</b>	Commercial: Auto-Oriented Small-Scale Strip Development			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"A-1" Agricultural District			
<b>Proposed Zoning District</b>	"C-1" Neighborhood Retail Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	2	5	1	<20%
<b>Plan and Zoning Commission Action</b>	Approval	12-0-1	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

Larry Hibbs - 9450 County Line Road

ZON2006-00022



April 10, 2006

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 March 16, 2006, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0-1 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			



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

**APPROVAL** of a request from Larry Hibbs (Owner) represented by Clark Stewart (Agent) to rezone property located at 9450 County Line Road that has been recently annexed into the City from "A-1" Agricultural District to "C-1" Neighborhood Retail Commercial District to allow development of the property for a mixed-use center having office/retail and multiple-family residential use, subject to the following conditions: (ZON2006-00022)

1. Submission of a site plan for review and approval by the Plan and Zoning Commission for all future development of the site; and
2. Prohibition of the following uses:
  - a. Automotive and motorcycle accessory and parts store,
  - b. Gas station,
  - c. Package goods store for the sale of alcoholic beverages,
  - d. Pawn shop,
  - e. Small engine repair,
  - f. Theatre,
  - g. Title loan business, and
  - h. Check cashing

Written Responses

- 2 In Favor
- 4 In Opposition
- 1 Unknown

*This item would not require a 6/7 vote by City Council due to opposition.*

**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.

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

1. Submission of a site plan for review and approval by the Plan and Zoning Commission for all future development of the site; and
2. Prohibition of the following uses:
  - a. Automotive and motorcycle accessory and parts store,
  - b. Gas station,
  - c. Package goods store for the sale of alcoholic beverages,
  - d. Pawn shop,
  - e. Small engine repair,
  - f. Theatre, and
  - g. Title loan business.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The subject property was automatically zoned "A-1" Agricultural District when it was recently annexed into the City. The applicant is requesting to rezone the property to "C-1" Neighborhood Retail Commercial District to allow the development of a mixed-use building with commercial and residential uses. The submitted site sketch shows a two-story building with a 14,400 square foot footprint and with attached garages at the rear of the building for the 9 dwelling units. Four surface parking stalls are also provided at the rear of the building for the dwelling units. The submitted site sketch also shows 40 parking stalls at the front of the site along SW 9<sup>th</sup> Street.
2. **Size of Site:** 1.184 acres or 51,570 square feet.
3. **Existing Zoning (site):** "A-1" Agricultural District. Prior to annexation the site was zoned "C-1" Local Services Commercial District by Warren County, which is similar to the City's "C-1" District.
4. **Existing Land Use (site):** The subject property is undeveloped.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-70", Use is single-family residential.
  - South** – "R-2" (Warren Co.) Single Family Residential District, Use is an unincorporated single-family development.
  - East** – "C-2", Use is convenience store.

**West** – “R-2” (Warren Co.) Single Family Residential District, Use is an unincorporated single-family development.

- 6. **General Neighborhood/Area Land Uses:** The subject property is located along the southern City limits near the Blank Golf Course. The area generally consists of single-family dwellings with a mix of more intense uses along the SW 9<sup>th</sup> Street corridor including the Blank Park Zoo.
- 7. **Applicable Recognized Neighborhood(s):** N/A.
- 8. **Relevant Zoning History:** N/A.
- 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 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. **Drainage/Grading:** Drainage and grading will be evaluated during the site plan review process before the applicant can develop the subject site. Staff does not anticipate any issues at this site.
- 2. **Utilities:** Staff believes sufficient utilities exist to support the proposed development.
- 3. **Landscaping & Buffering:** Development of the site will be required to meet the City’s Landscaping Standards for the “C-1” District. These standards include the provision of the following:
  - a. Open space equal to 20% of the area of the site with 1 overstory tree, 1 evergreen tree and 1 shrub for every 2,500 square feet of required open space.
  - b. A 10’ wide bufferyards along the south and west property lines with a 6’ tall, 75% opaque fence or wall, with 2 overstory trees and 6 evergreen trees for every 100 lineal foot.
  - c. A 10’ wide parking lot perimeter planting area consisting of 1 overstory tree and 3 shrubs for every 50 lineal feet with the balance of the area consisting of grass, mulch or other vegetative cover.

The submitted site sketch does not completely meet these standards. Any future development of the site will need to address these standards.

- 4. **Traffic/Street System:** The subject site is located at the intersection of SW 9<sup>th</sup> Street and County Line Road. These two facilities currently carry traffic loads heavy enough to support this type of development. The proposed development of this site should have minimal impact on the traffic pattern in the area.
- 5. **Access & Circulation:** The submitted site sketch shows a driveway accessing SW 9<sup>th</sup> Street and two driveways accessing County Line Road. A drive is also shown along the north side of the development providing internal circulation from the front of the site to the rear of the site. Staff is concerned with the functionality of the two driveways along County Line Road and the connecting drive. Staff believes that this layout will create both vehicular and pedestrian

circulation conflicts and recommends that this layout be re-evaluated during the development of a site plan.

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6. **Parking:** The submitted site sketch shows 40 parking stalls at the front of the site and 9 attached garages and 4 surface parking stalls at the rear of the development. The total number of stalls shown on the site sketch meets the City's parking requirements if the commercial component of the building is developed with office uses. Retail and restaurant uses would likely require the developer to seek relief of the parking requirements by the City's Zoning Board of Adjustment or to redesign the development.
7. **Urban Design:** The proposed development includes multifamily units and would require review and approval of the site plan by the Plan and Zoning Commission in accordance with the City's Design Guidelines for Multiple Family Dwellings as described in Section 82-214.05 of the City Code. However, if the residential component was removed from the proposed development the site plan would only be required to be approved by the City's Permit and Development Center. Staff believes that due to deficiencies of the submitted site sketch with regard to parking lot layout, buffering and landscaping, the sensitivity of the site in relationship to the surrounding neighborhood and the future growth of the area that the site plan should be reviewed by the Plan and Zoning Commission. Staff recommends that approval of the rezoning be subject to the review and approval of a site plan by the Plan and Zoning Commission for all future development of the site.

#### **SUMMARY OF DISCUSSION**

Erik Lundy: Presented staff report and recommendation. Noted the request is in the area being looked at regarding the Iowa Hwy 5 study.

Mike Ludwig: Noted prior to annexation into the City the subject site was zoned comparatively. The 2020 Community Character Plan designates the property for commercial; not likely to change as part of Iowa 5 corridor study. C-1 zoning protects adjoining residential uses.

Jaime Malloy, Architects Well, Kastner Schipper: Represented the applicant. Noted staff's recommendation that the future site planning be reviewed by the Commission would be in everyone's best interests and they had no objections to the prohibited uses.

#### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one in the audience to speak on this item.*

#### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Brian Millard: Moved staff recommendation with additional prohibition of check cashing.

Motion passed 12-0-1 (Tim Urban abstained).

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment

Item ZON2006-0022 Date 3-10-06 53

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

(Circle One)

RECEIVED

MAR 13 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name West Lakes Properties, LLC

Signature [Signature]

Address 4949 Westown Pkwy # 200

Reason for opposing or approving this request may be listed below: West Des Moines, IA 50266

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item ZON2006-0022 Date 3-7-06

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

(Circle One)

RECEIVED

MAR 08 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Get-N-Go by Pete Klundt

Signature [Signature]

Address ~~2716 Interstate Ave~~ 890 County Line Rd

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



53

Item ZON 2006-00022

Date March 11<sup>th</sup>, 2006

I (am)  in favor of the request.  
(Circle One)

RECEIVED

MAR 15 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Dana Rosendahl

Signature Dana Rosendahl

Address 7906 SW 9<sup>th</sup> Place D.M., Iowa

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

This area is primarily residential. A commercial property constructed on this lot will add to traffic congestion, and pose additional danger to the many school children in the area. Not all land needs to be developed. There is value in peace, quiet, and open space also

Item ZON 2006-00022

Date \_\_\_\_\_

I (am)  in favor of the request.  
(Circle One)

RECEIVED

MAR 13 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Richard Card

Signature Richard E. Card

Address 9442 County Line Rd

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

I would like to see this property zoned only for single dwelling. There are very nice homes on 3 sides of property. I know if property is zoned C1 the value of my home will be less than if single dwelling. County Line + SW 9 is a very busy intersection. Adding a strip mall or apartments close to the intersection would be horrible for traffic flows.

Item ZON 2006-00022

Date 3-10-2006 **53**

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

RECEIVED

MAR 15 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name John Hamilton

Signature John Hamilton

Address 9412 County Line Road

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

I feel the property should be zoned single family  
residential. All other lots except one (6+UG)  
are SFR. The intersection of SW 9th & County  
line is not set up to handle the additional traffic  
of a business on that lot. Thank you.

Item ZON 2006-00022

Date 3-10-06

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

RECEIVED

MAR 13 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name Edward F. Lose

Signature Edward F. Lose

Address 931 RANCHO DR

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

This is a Residential Neighborhood  
Please keep it that way - Thank you.

Item ZON2006-00022 Date 3/8/06

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

(Circle One)

RECEIVED

Print Name Joan Lopez

MAR 13 2006

Signature Joan Lopez

COMMUNITY DEVELOPMENT DEPARTMENT

Address 901 Ranchel Dr

50320

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

~~XXXXXXXXXXXXXXXXXXXX~~ ??

Item ZON2006-00022 Date 3-11-06

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

(Circle One)

RECEIVED

Print Name Randal S Mitchell

MAR 17 2006

Signature Randal S Mitchell

COMMUNITY DEVELOPMENT DEPARTMENT

Address 9428 County Line Rd

50320

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

I want single family homes there. If this is allowed we will have traffic problems SW 9th is not large enough to handle this. What will happen when you widen 9th st to 41st? How much more will this cost the city?  
DENIED AFTER P02 meeting