

.....  
**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

Date September 28, 2009


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

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

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

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:



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

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.

- 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 7<sup>th</sup> 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 7<sup>th</sup> 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 14<sup>th</sup> 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.
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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.
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,



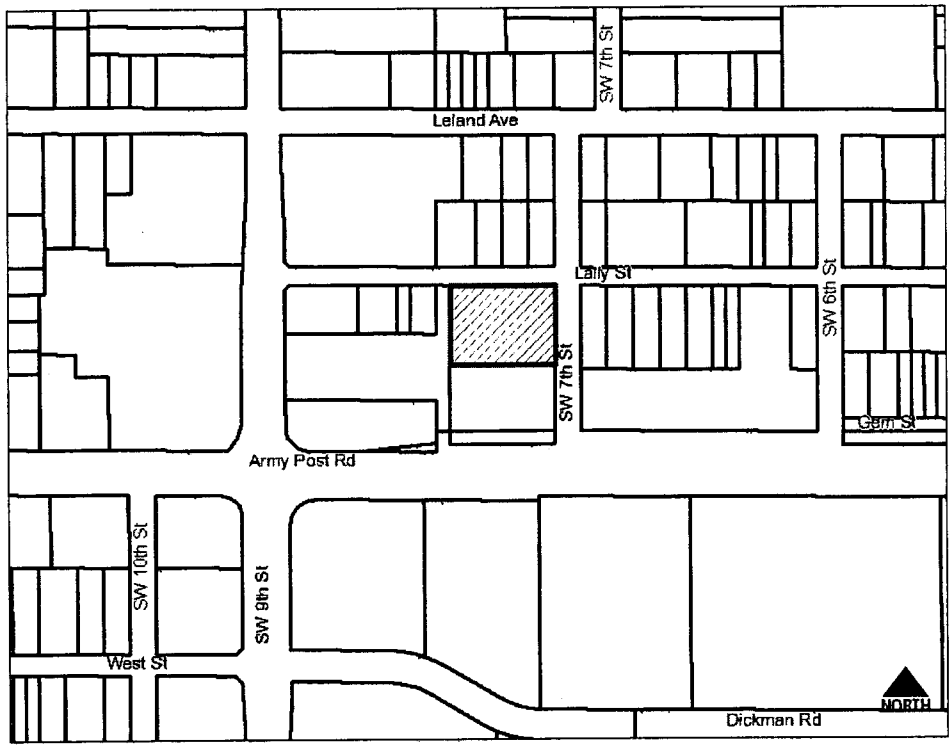
Jason Van Essen, AICP  
Senior Planner

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	
<b>Description of Action</b>	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.			
<b>2020 Community Character Plan</b>	Commercial: Pedestrian-Oriented Commercial Corridor			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	Limited "C-2" General Retail and Highway Oriented Commercial District			
<b>Proposed Zoning District</b>	"C-2" General Retail and Highway Oriented Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	1	4		<25%
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	10-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

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



Item \_\_\_\_\_ Date 8/31/09

I (am)  in favor of the request.

**RECEIVED**

Print Name Larry & Renea Wamshar

Signature Renea Wamshar

Address 6301 SW 12th St. DM, IA

SEP 03 2009

COMMUNITY DEVELOPMENT

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.

9.1.09  
Understand a lawn mower shop  
will be moving in, I am worried about  
the noise factor!

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

Print Name Judith K. Davis  
Signature Judith K. Davis  
Address 6015 Kelly  
AUG 31 2009  
COMMUNITY DEVELOPMENT

I (am)  in favor of the request.

Item 2009 00132 Date Aug 27, 2009

Item 2009 00132 Date 8-27-09

I  (am not) in favor of the request.

(Circle One) **RECEIVED**  
Print Name Ed Hoffman  
Signature [Signature]  
Address 712 Lally St.

AUG 31 2009  
COMMUNITY 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.

(Circle One) **RECEIVED**  
Print Name CHRISTOPHER RODI  
Signature [Signature]  
Address 706 Leland Ave Des Moines, 50315

SEP 01 2009  
COMMUNITY DEVELOPMENT

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

MAY BE ZONED FOR APARTMENTS. THIS  
NEIGHBORHOOD HAS ENOUGH MULT-FAMILY UNITS.

57

Item 2009 00182 Date 8.27.09

(am) in favor of the request.

**RECEIVED**

Print Name DEBRA J. FISHER  
Signature [Signature]  
Address 700 LELAND

AUG 31 2009

UNITY DEVELOPMENT

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

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

*This is a relationship with Kelly  
that already - having a husband in  
a technical school only career in IT  
The client want a <sup>partner</sup> ~~partner~~ to see  
children. We are trying to ~~maintain~~ <sup>maintain</sup> the  
a great good cost plan.*

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

**NOT APPROVED OF RECORD OR APPROVED**

Signature [Signature] Address 714 Bailey

Print Name Lucine Dwyer

SEP 01 2009

RECEIVED

2009 00182

Date 8/27/09

Item

DEBRA J. FISHER

Date

8/27/09