



Date April 20, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM ARNOLD DEWITT (OWNER) TO REZONE PROPERTY LOCATED IN THE VICINITY OF 3917 MAHASKA AVENUE FROM "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "C-2" GENERAL RETAIL AND HIGHWAY-ORIENTED COMMERCIAL DISTRICT**

**WHEREAS**, on January 26, 2015, by Roll Call No. 15-0107, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 15, 2015, its members voted 9-1 in support of a motion to recommend **APPROVAL** of a request from Arnold DeWitt (owner) to rezone real property located in vicinity of 3917 Mahaska Avenue, locally known as 3917 Mahaska Avenue and Polk County District/Parcel No. 060/00668-000-000 ("Property"), from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow expansion of the existing mini-warehouse complex, subject to the owner agreeing to the following conditions:

1. Only the uses of structures or land listed below shall be permitted upon the Property:
  - a. Any use allowed in the "R1-60" Commercial Residential District.
  - b. Mini-warehouse self-storage complex.
2. A development of the Property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  - a. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
  - b. The remaining sides of any building shall be in earth-tone colors.
  - c. No storage units shall have doors facing towards Mahaska Avenue.
  - d. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
  - e. No storage units within the easternmost building on the site shall have doors facing toward the east.
  - f. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
  - g. There shall be no signs other than internal directional signs on the Property.
  - h. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the Property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - i. A minimum 25-foot wide building setback shall be maintained along the eastern boundary of the Property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - j. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
  - k. No surface water shall be released onto any adjoining residential property.
  - l. Release the easement on Robert Anderson's property at 1232 E. 40th Street.
  - m. No exterior lighting shall be placed on building faces that do not directly abut a drive; and

**WHEREAS**, on January 26, 2015, by Roll Call No. 15-0107, it was duly resolved by the City Council that the application of Arnold DeWitt (owner) to rezone the Property, as legally described below, be set down for hearing on February 9, 2015 at 5:00 P.M., in the Council Chamber at City Hall; and

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



.....  
**Date** April 20, 2015

**WHEREAS**, on February 9, 2015, by Roll Call No. 15-0249, the City Council opened and continued the public hearing on the rezoning request to March 23, 2015 at 5:00 p.m.; and

**WHEREAS**, on March 23, 2015, by Roll Call No. 15-0528, the City Council opened and continued the public hearing on the rezoning request to April 6, 2015 at 5:00 p.m.; and

**WHEREAS**, on April 6, 2015, by Roll Call No. 15-0610, the City Council opened and continued the public hearing on the rezoning request to April 20, 2015 at 5:00 p.m.; 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 Property locally known as 3917 Mahaska Avenue and Polk County District/Parcel No. 060/00668-000-000, legally described as:

Lots 101, 102, and 103 in BROADACRE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District to allow expansion of the existing mini-warehouse complex, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owners of the Property, which is binding upon the owners and their successors, heirs and assigns.

**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, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.



Roll Call Number

Agenda Item Number

40B

Date April 20, 2015

-3-

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

*Glenna K. Frank*

Glenna K. Frank, Assistant City Attorney

(ZON2014-00230)

NOTE: Six affirmative votes are required to approve the proposed rezoning, due to the written protest against the rezoning as signed and submitted by owners of twenty percent or more of the property which is located within 200 feet of the exterior boundaries of the property to be rezoned. Des Moines City Code §134-3(ii).

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

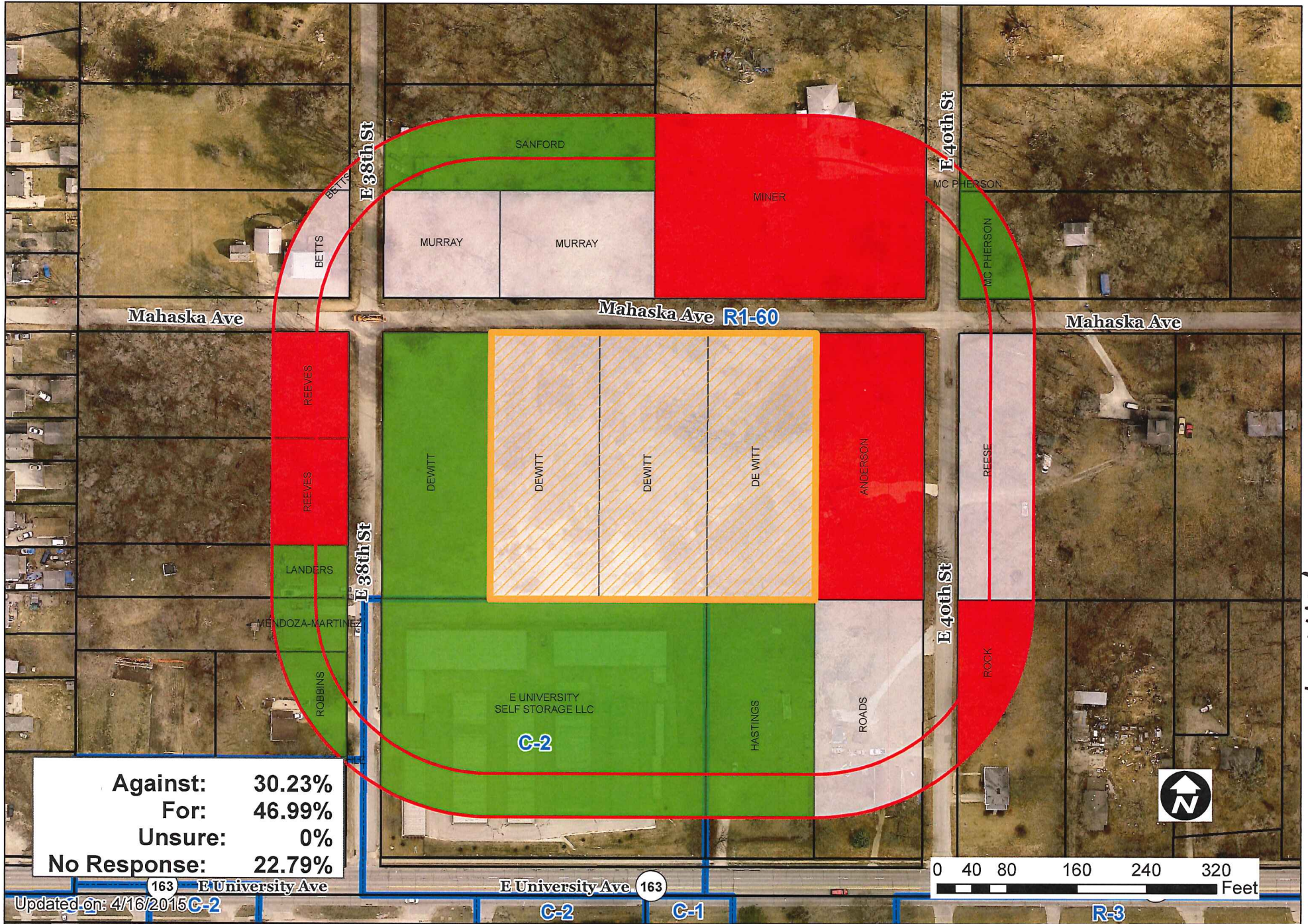
\_\_\_\_\_  
Mayor

**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



Against:	30.23%
For:	46.99%
Unsure:	0%
No Response:	22.79%

Updated on: 4/16/2015 C-2

MAR-4-16-15

40

1 inch = 140 feet

ZON2014-00230

Item \_\_\_\_\_

Date 1-07-15

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

(Circle One)

*applicant owned  
(outside subj area)*

Print Name Arnold E DeWitt

Signature Arnold E DeWitt

Address 3800 E University Ave

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

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Item \_\_\_\_\_

Date 1-07-15

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

*applicant owned,  
(outside sub area)*

(Circle One)

Print Name Arnold E DeWitt

Signature Arnold E DeWitt

Address 3800 E University Ave DSM, IA

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

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To Whom it may concern

my name is Laura McCann I live  
at 1315 E 38th St DSM Iowa and  
I am in favor of rezoning lots  
101, 102 & 103 from R1 to C2 in  
broadacre.

Laura McCann  
3-5-15

SEE SANFORD

Item \_\_\_\_\_

Date

Jan. 10 2015

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

(Circle One)

Print Name

John H. McPherson

Signature

John H. McPherson

Address

1305 E. 40th St.

*owns 2 properties  
(1305 & north highway)  
& not combined*

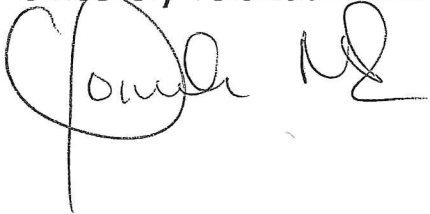
Reason for opposing or approving this request may be listed below:

These owners need room to expand  
an established business with  
growing public demands, we  
should support them with  
this request.



To whom it may concern: My Name is Yolanda Mendoza, I live At 1220 E. 38<sup>th</sup> st, and after discussing my concerns with Arnold DeWitt about the zoning changes on lots 101, 102 & 103 broad acre I now rescind my previous vote and I am in favor of supporting the zoning change from R1 to C2. Please change my vote to in favor of the zoning change.

Sincerely Yolanda Mendoza



4/3/15

ZON2014-00230

SUPERCEDED BY 4/3 Supped letter

Item \_\_\_\_\_

Date 1-10-15 406

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

Received post P&Z 1/15 meeting

(Circle One)

Print Name Yolanda Mendola

Signature [Signature]

Address 1220 E 38th St Dayton OH 45424

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

I believe by rezoning My Property value will decrease and there will be more traffic on the street where my kids will be limited to play on the yard.

To whom it may concern: My Name is Jody Hastings, I live At 3936 E. University Ave, and after discussing my concerns with Arnold DeWitt about the zoning changes on lots 101,102&103 broad acre I now rescind my previous vote and I am in favor of supporting the zoning change from R1 to C2. Please change my vote to in favor of the zoning change.

Sincerely Jody Hastings

Jody Hastings - 4/4/15  
Andrew Hastings 4/4/15

RECEIVED  
COMMUNITY DEVELOPMENT

Superseded by YOB  
4/4/15 letter of  
support

January 5, 2014

JAN 15 2015

DEPARTMENT

To: Des Moines City Council

Re: Zoning & Planning, Commercial Property for E. University Self Storage

Dear Council Members,

My name is Jodi Hastings, and I am a Deed Holder of address is 3936 E University Ave, Des Moines, Ia. My son Andrew is the Mortgage Holder/Owner. Together, we own this property that ~~we~~ <sup>was</sup> previously owned by my mother prior to her passing in '06. Andrew & I have been recently informed that there will be a meeting to assess the property directly north & Northwest, adjacent to our property in order for East University Self Storage to expand.

We are protesting such action as this zoning will have a negative impact on our property. We have dealt with other issues in the past such as watershed from previous construction & left over materials (unfinished construction prior 2006) & other matters as the property sits now. (See assessment)

We are very concerned that these other sections will further a negative impact on the values of the other two homes on the block besides ours. Second, is safety? If one looks over the NW corner of the fence within approx. 4ft is a 15-20 drop off. This is a serious danger to children. (We have several young children over at all times) Next, aesthetics, this is Grays Woods Neighborhood. "Woods" being the key word. (This landscape has been destroyed without prior approval trees removed etc.) I guess if the city would like to make it all Commercial/Residential so that this project isn't spread about as such. If you're going to disturb the beauty of the trees & wildlife take the whole block. Why leave homes to be abandoned or become part of the Eastside we don't want to see. I honestly believe this is how "those neighborhoods" begin. Lastly, crime, again the only other homes on this block should have the zoning privilege of either or. If not places have a more likely chance of abandonment, crime, etc. Please take into consideration the repercussions if expansion is granted to the existing homes. We as a family wouldn't repurchase my home if this had already been completed.

Thank you for your time,

Sincerely,

Jodi & Andrew Hastings

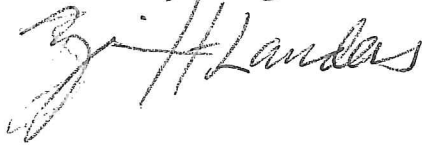
*Jodi Hastings*  
1-12-15

*Andrew Hastings*  
1-9-15

To whom it may concern: My Name is Bridget Landers, I live  
At 1224 E. 38 Street and I support the zoning changes on lots  
101,102&103 broad acre from R1 to C2

4-4-15

Sincerely Bridget Landers

A handwritten signature in cursive script that reads "Bridget Landers". The signature is written in dark ink and is positioned below the typed name.

To whom it may concern: My Name is Tanner Robbins, I live  
At 1208 E. 38 Street and I support the zoning changes on lots  
101,102&103 broad acre from R1 to C2

Sincerely Tanner Robbins



4/5/15

40B

Item ZON 2014-00230

Date Feb. 04-2015

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

*Received during  
Council meeting (2/9)*

Print Name Donald J. Reeves

Signature Donald J. Reeves

Address 3838 E. 38th Dr Ia

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

I will approve the rezoning after  
I have more information. If  
I still agree that this is  
good for the city + my  
neighbors.

Item ZON 2014-00230

Date April 17, 2015

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

Received March 23, 2015

(Circle One)

Print Name Robert & Suzie Anderson

Signature [Handwritten Signature]

Address 1232 E 4th St

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

Mr. Dent had not done what he  
stated about anything. Dr. Knott  
suggested to get rid of trees by back  
down.



Item \_\_\_\_\_ Date 1-8-15

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

(Circle One)

Print Name Marilyn Thomas

Signature Marilyn Thomas

Address 4000 E. University

*(Mailing Address to Lovaine Rock)*

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

The majority has been  
against this in the past  
I will not go against my  
neighbors.

4012

April 6, 2015

To whom it may concern my name is

Mark Mair and I live at 1320 E. 40th St.

After further consideration I am apposed to the zoning changes on lots 101, 102, and 103 in Broadacres Subdivision of Gray Woods. I am not in favor of changing them from R1 to C2.

Thank you,

Mark Ray Mair

RECEIVED 4/6/2015

HAND DELIVERY

~ 3:30PM

SUPERCEDED BY 4/6  
OPPOSITION  
letter

To whom it may concern: My Name is Merle Miner, I live  
At 1320 E. 40<sup>th</sup> st, and after discussing my concerns with Arnold DeWitt  
about the zoning changes on lots 101,102&103 broad acre I now  
rescind my previous vote and I am in favor of supporting the zoning  
change from R1 to C2. Please change my vote to in favor of the zoning  
change.

Sincerely Merle Miner

Merle Ray Miner 4-4-15

4013 SAME AS 1/14/15  
CARD

Item ZON 2014-00230

Date 2-4-15 Superseded by  
4/14 letter

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

Received during Council  
meeting (2/9)  
(already has a card)

(Circle One)

Print Name Melie Ray Miner

Signature Melie Ray Miner

Address 1320 E 40th St. Des Moines Ia

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

A family of foxes lives on the property!

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

Item

Date

1-14-2015

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

Received post PLZ meeting

RECEIVED  
(Circle One)

COMMUNITY DEVELOPMENT

Print Name

Merle Ray Miner

JAN 23 2015

Signature

Merle Ray Miner

DEPARTMENT

Address

1320 E. 40th St Des Moines Iowa 503

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

A fox lives on the property.

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

40B

Date \_\_\_\_\_

Agenda Item \_\_\_\_\_ 29

Call # 15-0528 44B

15-0609 41A



January 21, 2015

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 January 15, 2015, the following action was taken regarding a request from Arnold DeWitt (owner) to rezone property located in the vicinity of 3917 Mahaska Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes	X			
Greg Jones	X			
William Page	X			
Jonathan Rosenbloom		X		
Mike Simonson	X			
CJ Stephens				X
Vicki Stogdill				X
Greg Wattier	X			

**APPROVAL** of staff recommendation Part A) that the requested rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designation of Low-Density Residential; **APPROVAL** of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development and **APPROVAL** of the requested rezoning to a Limited "C-2" District, subject to the following conditions: (21-2014-4.14 & ZON2014-00230)

- A. Only the uses of structures or land listed below shall be permitted upon the Property:
  1. Any use allowed in the "R1-60" Commercial Residential District.

2. Mini-warehouse self-storage complex.
- B. A development of the property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  1. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
  2. The remaining sides of any building shall be in earth-tone colors.
  3. No storage units shall have doors facing towards Mahaska Avenue.
  4. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
  5. No storage units within the easternmost building on the site shall have doors facing toward the east.
  6. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
  7. There shall be no signs other than internal directional signs on the subject property.
  8. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  9. A minimum 25-foot wide building setback shall be maintained along the eastern boundary of the property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  10. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
  11. No surface water shall be released onto any adjoining residential property.
  12. Release the easement on Robert Anderson's property at 1232 E. 40<sup>th</sup> Street.

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the requested rezoning be found not in conformance with the Des Moines' 2020 Community Character Plan's future land use designation of Low-Density Residential.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development.

Part C) Staff recommends approval of rezoning to a Limited "C-2" District, subject to the following conditions:

- A. Only the uses of structures or land listed below shall be permitted upon the Property:
  1. Any use allowed in the "R1-60" Commercial Residential District.
  2. Mini-warehouse self-storage complex.
- B. A development of the property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  1. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
  2. The remaining sides of any building shall be in earth-tone colors.
  3. No storage units shall have doors facing towards Mahaska Avenue.
  4. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.

5. No storage units within the easternmost building on the site shall have doors facing toward the east.
6. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
7. There shall be no signs other than internal directional signs on the subject property.
8. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
9. A minimum 25-foot wide building setback shall be maintained along the eastern boundary of the property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
10. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
11. No surface water shall be released onto any adjoining residential property.
12. Release the easement on Robert Anderson's property at 1232 E. 40<sup>th</sup> Street.

Written Responses

- 3 In Favor  
3 In Opposition

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to expand the East University Self Storage mini-warehouse complex onto a portion of the undeveloped land to the north. The proposed expansion concept includes five (5) buildings with storage units. The proposed expansion area would be accessed by an internal driveway from the existing facility. The submitted site sketch demonstrates that the north 70 feet of the site would remain as open space in order to provide a landscaped buffer between the proposed miniwarehouse complex and Mahaska Avenue.

Any commercial development on the site would be subject to administrative approval of a Site Plan by the City's Permit & Development Center.

2. **Size of Site:** 372 feet by 308 feet or 114,576 square feet (2.63 acres).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The site is comprised of three undeveloped parcels that include significant natural vegetation along the north site boundary.
5. **Adjacent Land Use and Zoning:**
  - North** - "R1-60", Uses are vacant land and single-family dwellings.
  - South** - "Limited C-2", Use is the East University Self Storage mini-warehouse complex.
  - East** - "R1-60", Use is a single-family residential dwelling.
  - West** - "R1-60", Uses are vacant land and single-family residential dwellings.



40B  
~~44B~~  
41A

6. **General Neighborhood/Area Land Uses:** The subject property is within an area that transitions from a commercial corridor along East University Avenue to a low-density residential area.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Gray's Woods Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on December 24, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on December 24, 2014 (20 days prior) and January 5, 2015 (10 days prior to the hearing) to the Gray's Woods Neighborhood Association contact and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on January 9, 2015.

All agendas and notices are mailed to the contact person(s) designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Gray's Woods Neighborhood Association mailings were sent to Janis Bowden, 1250 East 37<sup>th</sup> Street, Des Moines, IA 50317.

8. **Relevant Zoning History:** On April 6, 1998, the property adjacent to the south was rezoned by Ordinance #13,597 to Limited "C-2" General Retail and Highway-Oriented Commercial District from "C-1" District, subject to the following conditions:
- A. Only the uses of structures or land listed below shall be permitted upon the Property:
    - 1. Any use allowed in the "C-1" Commercial Residential District.
    - 2. Mini-warehouse self-storage complex.
  - B. If the Property is developed for use as a mini-warehouse self-storage complex, then such development shall comply with the following additional requirements:
    - 1. The side facing University Avenue of any building upon the Property shall be of masonry material in earth tone colors. The balance of the building, including doors, shall be of an earth tone color.
    - 2. No storage units shall be placed with doors facing University Avenue.
    - 3. All lights shall be shielded so as not to illuminate into adjoining residential properties.
    - 4. Any signage upon the Property shall comply with the "C-1" Neighborhood Retail Commercial District Regulations. No off-premises advertising signs shall be located upon the Property.
    - 5. The gate and fencing along University Avenue and E. 38th street shall be of wrought iron or tubular steel construction painted earth tones or black to complement the buildings, with masonry pillars.
    - 6. A 25 foot wide setback shall be maintained along the eastern, southern and western boundaries of the Property. The setback area shall be landscaped in accordance with a plan approved by the Director of the Community Development Department.
    - 7. A sidewalk shall be installed and maintained along the E. University Avenue and E. 38th Street frontages. The installation of the sidewalk north of the entrance on E. 38 the Street shall be subject to feasibility with respect to grades.
    - 8. The hours of operation shall be limited to 6:00 am. to 10:00 p.m.

On September 15, 2011, the Plan & Zoning Commission recommended denial of a request to rezone the entire site (3.51 acre) to "C-2" District.

The City Council heard the request on October 10, 2011 and continued the item to November 7, 2011. The hearing was continued again to November 21, 2011.

On November 21, 2011, the City Council referred a modified proposal back to the Plan & Zoning Commission for consideration that excludes the north 100 feet of the site to allow for future single-family dwellings along the south side of Mahaska Avenue.

On December 15, 2011, the Plan & Zoning Commission reopened the public hearing. At that time, the request was continued to February 16, 2012 to allow the applicant to meet with the Gray's Woods Neighborhood Association to discuss leaving up to 120 feet along Mahaska Avenue zoned "R1-60" District. On February 16, 2011 it was continued to the March 1, 2012 Plan and Zoning Commission based on the scheduling of the neighborhood meeting for February 15, 2012.

On March 1, 2011, the Plan and Zoning Commission recommended approval of the rezoning subject to the following conditions:

- A. Only the uses of structures or land listed below shall be permitted upon the Property:
  - 1. Any use allowed in the "R1-60" One-Family Low-Density Residential District.
  - 2. Mini-warehouse self-storage complex.
- B. If the Property is developed for use as a mini-warehouse self-storage complex, then such development shall comply with the following additional requirements:
  - 1. Access shall be provided from an internal drive approach from the existing facility to the south and not from East 38<sup>th</sup> Street.
  - 2. The side of any building upon the Property facing East 38<sup>th</sup> Street shall be in earth tone colors.
  - 3. No storage units within the westernmost building on the site shall be constructed with doors facing East 38<sup>th</sup> Street.
  - 4. No storage units within the easternmost building on the site shall have doors facing the east property line.
  - 5. All exterior lighting fixtures shall be shielded so as not to illuminate into surrounding residentially-zoned properties.
  - 6. Any signage upon the Property shall comply with the "C-1" Neighborhood Retail Commercial District Regulations. No off-premises advertising signs shall be located upon the Property.
  - 7. Any fencing along East 38<sup>th</sup> Street shall be of wrought iron or tubular steel construction painted earth tones or black to complement the buildings, with masonry pillars.
  - 8. A minimum 25-foot wide setback shall be maintained along the eastern and western boundaries of the Property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - 9. A minimum 10-foot wide setback shall be maintained along the northern boundary of any development. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - 10. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
  - 11. No surface water detention shall be released onto any adjoining residential property.

40B  
~~44B~~  
~~44A~~

12. No permit for construction shall be issued until such time that all zoning violations for the existing miniwarehouse use at 3800 East University Avenue have been remedied.
13. No permit for construction shall be issued until such time that the entire site and the 100-foot wide area adjacent to the north have been graded to the satisfaction of the Engineering staff of the Permit and Development Center in accordance with a grading permit and soil erosion control plan.
14. Release the easement on Robert Anderson's property at 1232 E. 40<sup>th</sup> Street.
15. The four lots on Mahaska Avenue shall be 110 feet deep from north to south.
16. If there is a retaining wall between the storage units and the residential lots on Mahaska Avenue, it should not be more than four feet in elevation.
17. The four parcels on Mahaska Avenue shall be graded so they are buildable.
18. That all seven pages of the "Staff Report and Recommendation" be part of the record.

On March 26, 2012 the City Council approved a first reading of the rezoning subject to the recommended conditions of the Plan and Zoning Commission. On April 9, 2012, the applicant requested withdrawal of the rezoning. The withdrawal was rejected by the City Council on May 7, 2012.

On May 21, 2015 the City Council approved a second reading of the rezoning request, with the modification that the north 110 feet be excluded from the rezoning area, to allow land along Mahaska Avenue to provide adequate depth for single-family residential lots.

On June 22, 2012 the applicant submitted a second letter requesting withdrawal of the rezoning. On June 25, 2012 the City Council dismissed the rezoning proceedings based on the applicant's withdrawal of the application.

The City still had zoning enforcement action pending on the existing miniwarehouse site at 3800 East University Avenue. This was closed after a site inspection on August 9, 2012.

**9. 2020 Community Character Land Use Plan Designation: Low-Density Residential.**

**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. **Gray's Woods Neighborhood Action Plan:** The Gray's Woods Neighborhood Plan was adopted by City Council in March of 1999. A goal of the plan is to "restrict expansion of existing commercial development into existing residential development within the neighborhood". The plan calls for "preventing commercial rezoning of residential property adjacent to existing commercial uses" while "encouraging flexibility

in regulations to allow future expansion or improvement of existing conforming commercial uses within their current site”.

However, the plan also states that “establishing the future land use is important in the implementation of the Action Plan in that a guideline is provided for future development and redevelopment. It should be considered as a guideline and not as a strict determinant so that it can be flexible enough to allow for changing environments in acceptable development practices and other land use needs which cannot be foreseen at the current time.” Staff believes that, in this instance, the property can acceptably be developed for a commercial use so long as the development occurs in accordance with zoning conditions, such as limiting access, requiring adequate buffering and landscaping, and the use of quality building materials.

In the previous rezoning request the City Council was looking to preserve the depth of setback from Mahaska Avenue by leaving 110 feet out of the rezoning request. Since that time the applicant proposes a 70-foot setback along Mahaska Avenue but preserving 125 feet of depth from East 38<sup>th</sup> Street to be left out of the rezoning to allow single-family lot development. This would require a separate subdivision plat for creation of the single-family lots. This development is also more feasible as there is existing sanitary sewer available in East 38<sup>th</sup> Street.

2. **2020 Community Character Plan:** The requested rezoning to “C-2” General Retail and Highway-Oriented Commercial District would require that the current Des Moines’ 2020 Community Character Plan future land use designation be amended from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development.
3. **Natural Site Features:** The northern portion of the site slopes downward toward Mahaska Avenue, with as much as 30 feet change of grade change. The portion of the site that is steeply slopes contains significant vegetation.

Any site plan submitted for commercial development of the site would be required to comply with the City’s Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code). This Ordinance requires mitigation for any tree or tree canopy removed after May 1, 2009. During any future Site Plan review, would be required to calculate the area of tree canopy that has been removed since May 1, 2009 to determine the number of trees that need to be planted as mitigation. Staff estimates that as much as 30,000 square feet of canopy has been removed since that time, which would require 15 replacement trees (1 per 2,000 square feet of removed tree canopy). The applicant has indicated that the replacement trees would be planted along the north and east site boundaries in order to provide additional buffering of the development.

4. **Landscaping & Buffering:** Any site plan submitted for commercial development of the site would be required to comply with the City’s Landscape Standards, including provision of perimeter plantings and at least 20% of the site being open space.

The submitted site sketch demonstrates that approximately the north 70 feet of the site would remain as open space in order to provide a landscaped buffer between the proposed miniwarehouse complex and Mahaska Avenue. Since the site sketch is only conceptual, staff recommends that any rezoning be subject to a zoning condition that requires a minimum 50-foot wide setback along the northern boundary of the property

adjoining Mahaska Avenue and a 25-foot wide setback be maintained along the eastern boundary of the site. These setback areas should be landscaped in accordance with a plan approved by the Planning Administrator.

5. **Drainage/Grading:** Any site plan submitted for commercial development of the site would be required to comply with the City's stormwater management requirements to the satisfaction of the Permit & Development Center. All grading would be subject to an approved grading permit and soil erosion control plan. There is no storm sewer available in close proximity to the subject property. Therefore, any surface detention of stormwater would likely feed into the system within the existing miniwarehouse site and into public storm sewer in East University Avenue. Alternate design whereby the stormwater would infiltrate into the ground without surface water detention is also a possibility.
6. **Utilities:** There is an existing water main and a sanitary sewer west of the site within the East 38<sup>th</sup> Street right-of-way. Given the change in grade, it is unlikely that any development on the proposed site could feasibly connect to this sanitary sewer. The most likely connection to serve this area, if necessary, would be through the existing site to the south. There is not likely a water or sanitary sewer need for the proposed expansion. However, platting of the property fronting East 38<sup>th</sup> Street to the west is a possibility given the access to these utilities.
7. **Traffic/Street System:** The existing miniwarehouse facility is accessed by a drive approach from East 38<sup>th</sup> Street. The submitted site sketch demonstrates that the expansion area would be accessed by an internal drive approach from the existing facility. The applicant is not proposing an access drive from Mahaska Avenue.

The existing miniwarehouse facility at 3800 East University Avenue includes the following zoning condition: "A sidewalk shall be installed and maintained along the East University Avenue and East 38<sup>th</sup> Street frontages. The installation of the sidewalk north of the entrance on East 38<sup>th</sup> Street shall be subject to feasibility with respect to grades." Sidewalk has been installed on East University Avenue. However, it has not been installed along East 38<sup>th</sup> Street. The Permit & Development Center's engineering staff has since determined that it is not feasible to construct the sidewalk along East 38<sup>th</sup> Street due to the topography and the placement of existing utility poles.

8. **Miniwarehouse Requirements:** The Zoning Ordinance limits the length of any miniwarehouse structure to 150 feet in length and requires that structures be at least 10 feet from any other structure. The submitted site sketch demonstrates that none of the six (6) buildings would be greater than 150 feet in length. Additionally staff recommends that all applicable zoning conditions for the existing mini-warehouse facility to the south be transferred to the proposed site expansion zoning.

## SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Tim Fitzgerald asked what type of fencing is required on the east and west boundaries.

Erik Lundy stated screen fencing is required.

Will Page asked if there has been any communication from the neighborhood association.

Erik Lundy stated his understanding is they met with Janice from Grays Woods. Staff has not received a communication from the Grays Woods Neighborhood Association.

Mike Ludwig asked Erik to speak to the signage and fencing from the 2011 recommendation and whether or not those conditions should be included in this request.

Erik Lundy stated he believes at that time the thought was it was going up against Mahaska a little more. Staff is recommending no signage other than directional signage.

Wally Pelds 2323 Dixon Street stated this is a project they have been working on for a very long time. The applicant did attend the Grays Woods Neighborhood Association meeting and stated the neighborhood association is in favor of his request because they are proposing those four lots along E. 38<sup>th</sup> Street. They looked at the other options of the zoning that was proposed in 2011 and it was not conducive to constructing the sewer. They believe the new proposal fits the character of the neighborhood. The neighborhood likes the fact that the applicant is staying away from that north end. They currently have no use for it and it would require a lot of mitigation if trees were removed. The applicant is trying to get the zoning done so they can start with the site planning process and get that passed through.

Greg Jones asked about the boxed shapes on the plan

Wally Pelds stated those boxed shapes were for their SWPPP. They had to create a SWPPP (Stormwater Pollution Prevention Plan) for this site. It is temporary during construction.

Mike Simonson asked for an explanation of the grades on the street compared to the roof or first floor of the building.

Wally Pelds explained from the adjoining properties along the west are proposed to be lookout/walkouts because of the grade change down to the building. He pointed out where the drainage swale would be. The roof top is roughly at the same level as the street.

Jonathan Rosenbloom asked to hear about the prior zoning violations for the original storage unit site.

Wally Pelds stated that is a question for the applicant and unfortunately he is on vacation.

Erik Lundy stated the last time this went through the rezoning process there was deficiencies on the existing site to the south. That was reviewed in August of 2011. The grades did not allow the construction of sidewalk.

Mike Ludwig stated landscaping and grading violation for the subject property were a few of the past violations.

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~~44B~~  
~~44A~~

Erik Lundy stated the mitigation was in place when the trees were cleared. They will be subject to the mitigation standard.

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

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

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

Jonathan Rosenbloom noted that it appears this is contradictory to the neighborhood's plan.

Mike Ludwig stated there were conflicting statements in their neighborhood plan in that area. He gave the history of the previous plan. It came to Plan and Zoning Commission who recommended denial. City Council referred it back to the Commission for a second review and at that time it was recommended for approval. It made it to third reading by City Council when the applicant withdrew the application.

#### **COMMISSION ACTION:**

Mike Simonson moved staff recommendation Part A) that the requested rezoning be found not in conformance with the Des Moines' 2020 Community Character Plan's future land use designation of Low-Density Residential; Part B) approval of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development and Part C) approval of rezoning to a Limited "C-2" District, subject to the following conditions:

1. Only the uses of structures or land listed below shall be permitted upon the Property:
  - a. Any use allowed in the "R1-60" Commercial Residential District.
  - b. Mini-warehouse self-storage complex.
2. A development of the property for use as a mini-warehouse self-storage complex shall comply with the following additional requirements:
  - a. Any side of buildings facing Mahaska Avenue and East University Avenue shall be of masonry material.
  - b. The remaining sides of any building shall be in earth-tone colors.
  - c. No storage units shall have doors facing towards Mahaska Avenue.
  - d. No storage units within the westernmost building on the site shall be constructed with doors facing toward the west.
  - e. No storage units within the easternmost building on the site shall have doors facing toward the east.
  - f. Any exterior lighting fixtures free standing or building mounted shall be shielded so as not to illuminate onto adjoining residential properties.
  - g. There shall be no signs other than internal directional signs on the subject property.
  - h. A minimum 50-foot wide building setback shall be maintained along the northern boundary of the property adjoining Mahaska Avenue. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.
  - i. A minimum 25-foot foot wide building setback shall be maintained along the eastern boundary of the property. The setback area shall be landscaped in accordance with a plan approved by the Planning Administrator.

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~~15-0528~~

###

- j. The hours of operation shall be limited to 6:00 AM to 10:00 PM.
- k. No surface water shall be released onto any adjoining residential property.
- l. Release the easement on Robert Anderson's property at 1232 E. 40th Street.
- m. No exterior lighting fixtures shall be placed on building faces that do not directly abut a drive.

Motion passed 9-1. (Jonathan voted in opposition)

Respectfully submitted,



Michael G. Ludwig, AICP  
Planning Administrator

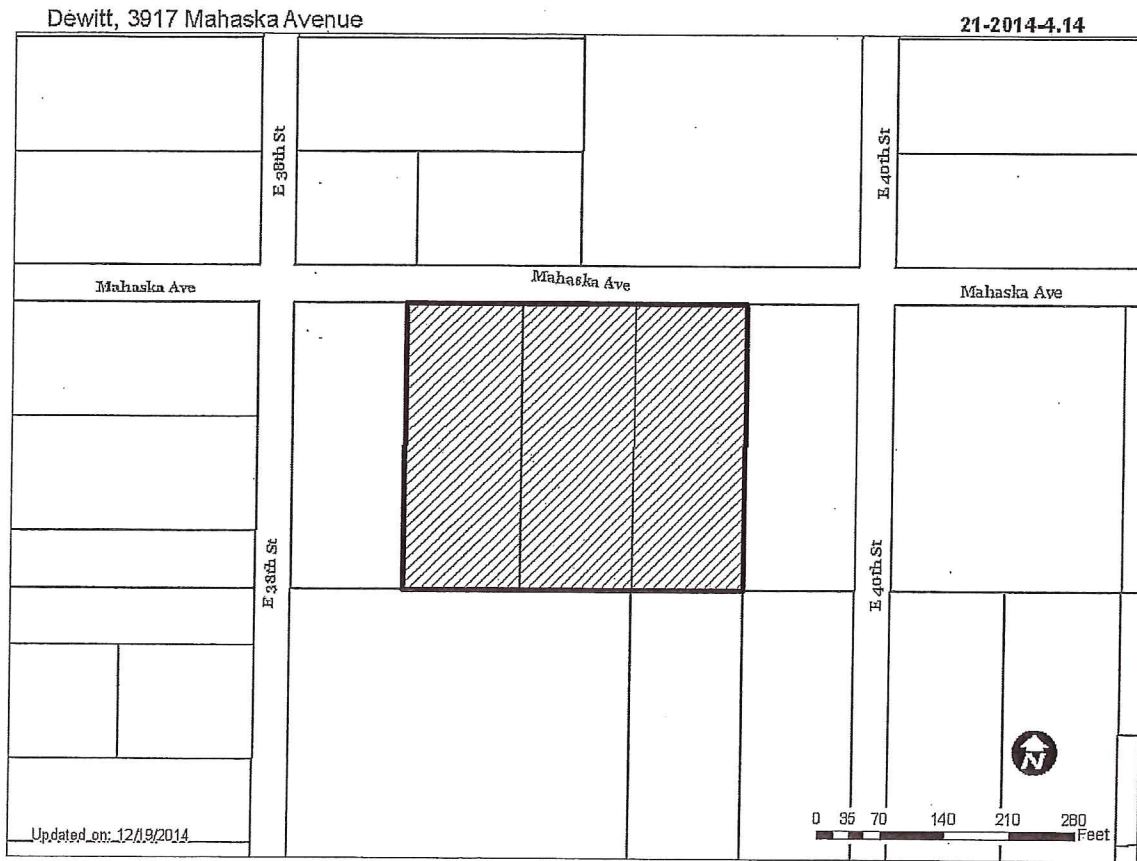
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Attachment



15-0528  
 15-0609

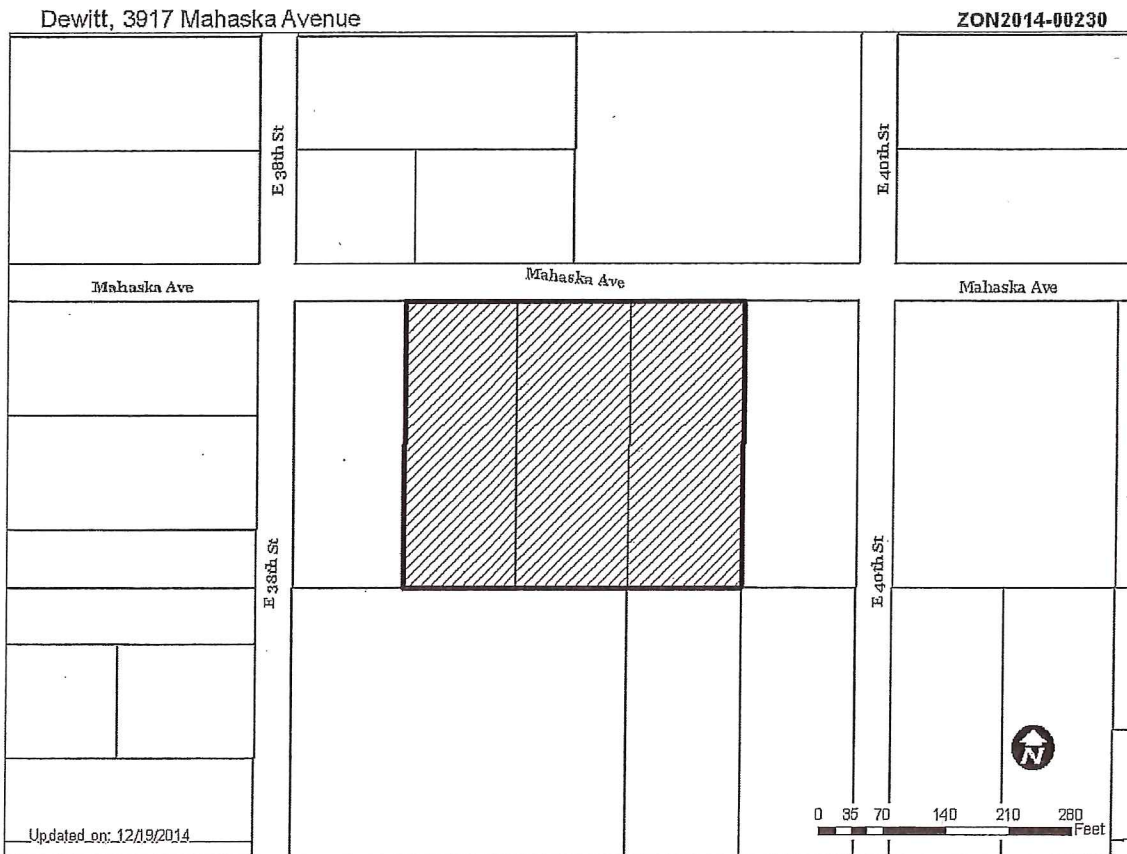
Request from Arnold DeWitt (owner) in vicinity of 3917 Mahaska Avenue.		File #	
		21-2014-4.14	
<b>Description of Action</b>	Approval of request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development.		
<b>2020 Community Character Plan</b>	Current: Low-Density Residential. Proposed: Commercial: Auto-Oriented, Small-Scale Strip Development.		
<b>Horizon 2035 Transportation Plan</b>	2026-2035: Widen East University from 4 lanes to 5 lanes.		
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District.		
<b>Proposed Zoning District</b>	Limited "C-2" General Retail and Highway Oriented Commercial District.		
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined
Inside Area			
Outside Area			
<b>Plan and Zoning Commission Action</b>	Approval	9-1	<b>Required 6/7 Vote of the City Council</b>
	Denial		
			No
			X



1 inch = 117 feet

15-0528  
 15-0109  
 40B

Request from Arnold DeWitt (owner) in vicinity of 3917 Mahaska Avenue.		File #		
		ZON2014-00230		
<b>Description of Action</b>	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing miniwarehouse complex, subject to conditions.			
<b>2020 Community Character Plan</b>	Current: Low-Density Residential. Proposed: Commercial: Auto-Oriented, Small-Scale Strip Development.			
<b>Horizon 2035 Transportation Plan</b>	2026-2035: Widen East University from 4 lanes to 5 lanes.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District.			
<b>Proposed Zoning District</b>	Limited "C-2" General Retail and Highway Oriented Commercial District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	3		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	9-1	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No



1 inch = 117 feet