



Date June 22, 2015

**RESOLUTION HOLDING HEARING ON REQUEST FROM 3826 EASTON BLVD, LLC TO REZONE PROPERTY LOCATED AT 3826 EASTON BOULEVARD**

**WHEREAS**, on June 8, 2015, by Roll Call No. 15-0912, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on May 21, 2015, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from 3826 Easton Blvd, LLC (owner), represented by Caleb Fritzler (officer), to rezone real property locally known as 3826 Easton Boulevard from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential District to allow development of a 4-unit multiple-family dwelling; and

**WHEREAS**, on June 8, 2015, by Roll Call No. 15-0912, it was duly resolved by the City Council that the application of 3826 Easton Blvd, LLC to rezone the Property, legally described as follows, be set down for hearing on June 22, 2015 at 5:00 p.m. in the Council Chambers at City Hall:

Lots 383 & 384, FOUR MILE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; 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 rezoning; 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.

**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 statements of interested persons and arguments of counsel, any and all comments for and against the proposed rezoning of the Property to "R-3" Multiple-Family Residential District, to allow development of a 4-unit multiple-family dwelling, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by \_\_\_\_\_ to adopt and DENY the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning:

- a. The City Plan and Zoning Commission voted 11-0 to recommend denial of the requested rezoning of the Property to "R-3" Multiple-Family Residential District, to allow development of a 4-unit multiple family dwelling.
- b. The proposed rezoning is not in conformance with the existing Des Moines' 2020 Community Character Plan future land use map, and the City Plan and Zoning Commission voted 11-0 to approve the staff recommendation that the proposed rezoning not be found in conformance with said Plan, and further voted 11-0 to deny the owner's request to amend the existing future land use designation for the Property from Low Density Residential to Medium Density Residential.



56B

Date June 22, 2015

- c. The Sheridan Gardens Neighborhood Association and adjoining neighbors have objected to the proposed rezoning.
- d. The proposed rezoning is not in conformance with the surrounding residential neighborhood or neighborhood plan, including owner-occupied single-family dwellings.
- e. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by \_\_\_\_\_ to continue the public hearing until July 13, 2015, at 5:00 p.m. in the Council Chambers, and to direct the City Manager and Legal Department to prepare the necessary legislation to APPROVE the rezoning subject to conditions acceptable to the City and the owner.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

(ZON2015-00064)

NOTE: Six affirmative votes are required to approve the proposed rezoning due to the Commission's recommendation for denial. Des Moines City Code §134-4.

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

23  
56B



June 1, 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 May 21, 2015, the following action was taken regarding a request from 3826 Easton Blvd, LLC (owner) represented by Caleb Fritzler (officer) to rezone property located at 3826 Easton Boulevard.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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			
Sasha Kamper	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; Part B) **DENIAL** to amend the Des Moines' 2020 Community Character Plan existing future land use designation from Low Density Residential to Medium Density Residential; and Part C) **DENIAL** of the request to rezone the subject property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential:

(21-2015-4.09 & ZON2015-00064)

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the proposed rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the request to amend the Des Moines' 2020 Community Character Plan existing future land use designation from Low Density Residential to Medium Density Residential.

Part C) Staff recommends denial of the request to rezone the subject property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential.

### Written Responses

0 In Favor

1 In Opposition

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

- Purpose of Request:** The applicant is proposing to construct a two-story building with 4 dwelling units and a two-car garage. The applicant would be required to submit a site plan and building elevations for review by the Plan and Zoning Commission in accordance with the City's Multiple Family Residential Design Guidelines if the property is rezoned.
- Size of Site:** 100 feet by 119 feet (11,900 square feet).
- Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
- Existing Land Use (site):** Vacant.
- Adjacent Land Use and Zoning:**
  - North** – "R1-60"; Use is single-family residential.
  - South** – "R1-60"; Use is single-family residential.
  - East** – "R1-60"; Use is single-family residential.
  - West** – "C-1"; Use is a nursing home.
- General Neighborhood/Area Land Uses:** The subject property is located on the northeast corner of the Easton Boulevard and East 38<sup>th</sup> Court intersection. The area generally consists of single-family dwellings. There is a small commercial node to the east at the Easton Boulevard and East 38<sup>th</sup> Street intersection.
- Applicable Recognized Neighborhood(s):** The subject property is located in the Sheridan Gardens Neighborhood and within 250 feet of the Grays Woods Neighborhood. These neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on May 1, 2015. A Final Agenda was mailed to the

neighborhood associations on May 15, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on May 1, 2015 (20 days prior to the hearing) and on May 11, 2015 (20 days prior to the hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Sheridan Gardens Neighborhood Association notices were mailed to Kurt Lee, 3507 East 39<sup>th</sup> Court, Des Moines, IA 50317. The Grays Woods Neighborhood Association notices were mailed to Janis Bowden, 1250 East 37<sup>th</sup> Street, Des Moines, IA 50317.

**8. Relevant Zoning History:** N/A.

**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, and taking into consideration the criteria set forth in Chapter 18B 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 development of the site must comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.
- 2. Utilities:** There are sanitary sewer, storm sewer and water lines in the adjoining rights-of-way.
- 3. Landscaping & Buffering:** Any development of the site will require landscaping in accordance with the Des Moines Landscape Standards. These standards generally include open space, bufferyard and parking lot plantings. All development is subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).
- 4. Access or Parking:** The applicant has submitted a site sketch that suggests access would come from a drive approach to Easton Boulevard and to East 38<sup>th</sup> Street. The sketch is very conceptual in nature and not to scale. It is not possible to determine the number of parking spaces that would be provided. The site sketch suggests the building would be located in the middle of the lot with parking to its south and north. A detached garage and dumpster enclosure would be located in the northeast corner of the lot. A minimum of 6 parking spaces would be required for the proposed 4 dwelling units (1.5 spaces per dwelling unit).

5. **“R-3” District Bulk Regulations:** The Zoning Ordinance requires the following to be provided for multiple-family development within the “R-3” District:

- Minimum lot area of 10,000 square feet,
- 2,500 square feet of lot area per dwelling unit,
- 30-foot building setback from all street fronting property lines,
- Building side yard setbacks totaling 17 feet with no less than 8 feet being provided on one side, and
- 35-foot building setback from the rear property line.

The subject property measures 11,900 square feet and complies with the minimum lot area requirements for four dwelling units. Zoning Board of Adjustment relief from setback requirements and/or parking lot dimension requirements may be necessary for the proposed development to be constructed.

6. **2020 Community Character Plan:** The subject property is within an area designated for Low Density Residential use by the Des Moines 2020 Community Character Plan. This designation is described as areas developed with exclusively single family and duplexes legal as of December 31, 1996 with up to 6 dwelling units per net acre. The Future Land Use Map must be amended to identify this property as Medium-Density Residential for the property to be rezoned to “R-3” Multiple-Family Residential District. This designation is described as areas developed with multi-family units including those over 8 units with up to 17 dwelling units per net acre.

The 2020 Community Character Plan states the following criteria should be considered when increases in density are proposed (Chapter 4, Page 72):

- Designed to be compatible with existing housing;
- Provides amenities of storage;
- Provides adequate parking in the neighborhood pattern;
- Causes no disruption to the existing neighborhood land use pattern;
- Integrates the neighborhood street network into the project;
- Is a planned mix of complementary land uses; and
- The land use change occurs at rear property lines or on a new block.

Easton Boulevard is a primary corridor in the northeast quadrant of the city. Primary corridors are generally thought of as appropriate locations for multi-family residential development. However, this is with the thought that when redevelopment occurs that enough land would be assembled to provide adequate off-street parking, screening, landscaping and setbacks from single-family residential uses. Staff believes the subject property is too small to be developed as proposed and that the project would negatively impact the adjoining neighborhood.

7. **Multiple-Family Residential Design Guidelines:** The applicant would be required to submit a site plan and building elevations for review by the Plan and Zoning Commission in accordance with the City’s Multiple Family Residential Design Guidelines if the property is rezoned. In acting upon any application for multiple-family dwellings, boarding houses or rooming-houses, the Plan and Zoning Commission shall apply the design guidelines City Code Section 82-213, which are in consideration of the

criteria set forth in Chapter 18B of the Iowa Code. The decision to approve, approve subject to conditions, or disapprove an application shall be based upon the conformance with the following design standards:

- a) *Architectural character.* New developments and alterations to existing development in or adjacent to existing developed areas shall be compatible with the existing architectural character of such areas by using a compatible design. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development. Brick and stone masonry shall be considered compatible with wood framing and other materials.
- b) *Building height and mass.* Buildings shall be either similar in size and height, or if larger, shall be articulated, setback or subdivided into massing that is proportional to the mass and scale of other structures on the same block and adjoining blocks. Articulation may be achieved through variation of roof lines, setbacks, patterns of door and window placement, and the use of characteristic entry features. To the maximum extent feasible, the height, setback and width of new buildings and alterations to existing buildings should be similar to those of existing buildings on the same block. Taller buildings or portions of buildings should be located interior to the site. Buildings at the ends of blocks should be of similar height to buildings on the adjoining blocks.
- c) *Building orientation.* To the maximum extent feasible, primary facades and entries shall face the adjacent public street. A main entrance should face a connecting walkway with a direct pedestrian connection to the public street without requiring all pedestrians to walk through parking lots or across driveways.
- d) *Garage access/location.* If the prominent character of garage access and/or location is located to the rear of the properties in the surrounding neighborhood, then new construction should be compatible with such character.
- e) *Rooftop/second story additions.* A rooftop or second floor addition, including but not limited to stairs and emergency egress, should not overhang the front or sidewalls of the existing building.
- f) *Emergency egress.* All stairs and means of emergency egress extending more than 15 feet above grade and visible from the adjoining street should be completely enclosed with materials compatible in color and texture with the balance of the building.
- g) *Parking.* Parking lots containing more than eight parking spaces should comply with the adopted landscape standards applicable to commercial development in the C-1 district.

## SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Marlon Mormann President of Northeast Neighbors Inc. 3320 Kinsey stated that Sheridan Gardens is a member of their association. They asked that since he was already here he would speak on their behalf. Sheridan Gardens Neighborhood Association is in opposition of the applicant's request. This was brought before their board and they unanimously opposed the applicant's request. This is an area of single-family dwellings mostly owner-occupied.

Will Page saluted Mr. Mormann for cooperating with other neighborhood associations.

Sharon Waters 2319 E. 38<sup>th</sup> Street asked how many buildings are being proposed on that corner or how many families would be on that property.

Greg Jones stated the proposal is one building with four units.

Sharon Waters stated she is concerned with too many multiple dwellings that could bring in extra problems.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

### **COMMISSION ACTION:**

John "Jack" Hilmes moved staff recommendation Part A) to find the proposed rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan; Part B) to deny the request to amend the Des Moines' 2020 Community Character Plan existing future land use designation from Low Density Residential to Medium Density Residential; and Part C) to deny of the request to rezone the subject property from "R1-60" One-Family Low-Density Residential District to "R-3" Multiple-Family Residential.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment



20N2015-58034

Mr. Lundy,

I wanted to let you know I did not receive a comment postcard so I am sending you this letter.

Our company owns the lot next to the lot in question. ~~I do not believe this property should be rezoned.~~  
This is a single family neighborhood. If this gets rezoned and a 4plex is built, it will make the single family home I build worth less than if there was another single family home on that lot. In fact, I believe, it will make other houses within a close proximity worth less. I purchased this house knowing the current zoning and what could go in there.

I have not been contacted by the person requesting this change. I don't feel it is in the best interest of the neighborhood to grant this request.



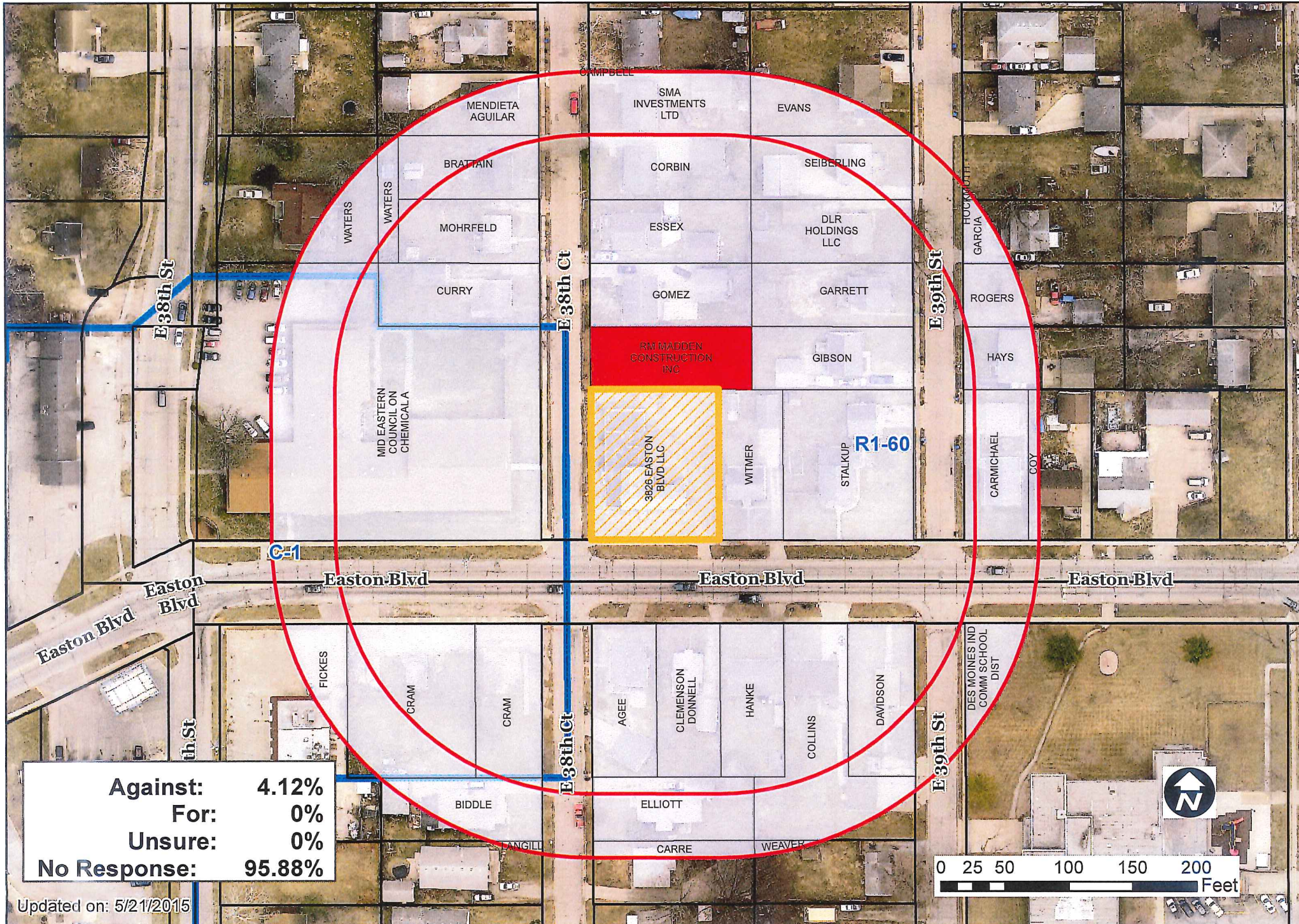
Rick Madden

V.P. – R.M. Madden Construction, inc

Broker- Madden Realty

5909 Grand Ave,

Des Moines, IA 50312



Against:	4.12%
For:	0%
Unsure:	0%
No Response:	95.88%

Updated on: 5/21/2015