



Date September 28, 2015

**RESOLUTION SETTING HEARING ON REQUEST FROM LYMAN ENTERPRISES, LC
(OWNER) TO REZONE PROPERTY LOCATED AT 2 HARTFORD AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 17, 2015, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Lyman Enterprises, LC (owner), represented by Anthony Lyman (officer), to rezone property located at 2 Hartford Avenue ("Property") from Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses, subject to the following conditions:

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices;
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking;
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area; and
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use; and

WHEREAS, the Property is legally described as follows:

Parcel "B" of the Plat of Survey filed October 14, 2003 and recorded in Book 10211, Page 852, being a part of Lots 22 and 23 of the Official Plat of the West ½ of Section 10, Township 78, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa, at 5:00 p.m. on October 12, 2015, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.



Roll Call Number

Agenda Item Number

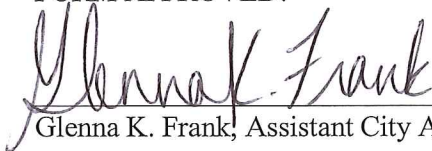
23

Date September 28, 2015

-2-

MOVED by _____ to adopt.

FORM APPROVED:


Glenna K. Frank, Assistant City Attorney

(ZON2015-00165)

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



September 23, 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 September 17, 2015, the following action was taken regarding a request from Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) to rezone property located at 2 Hartford Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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			
Brian Millard				X
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson				X
CJ Stephens				X
Greg Wattier				X

APPROVAL of the staff recommendation regarding Part A) that the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; Part B) **APPROVAL** of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node; Part C) **APPROVAL** of a rezoning of the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions: (21-2015-4.19 & ZON2015-00165)

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices.
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node.

Part C) Staff recommends approval of a rezoning of the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions:

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices.
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

Written Responses

3 In Favor

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the permitted to uses of the building to include 1) any use allowed in and as limited in the "R-3" Multiple-Family Residential District, 2) daycare facilities, 3) dance studios, 4) office, and 5) artist studios.
2. **Size of Site:** 1.29 acres.
3. **Existing Zoning (site):** Limited "C-1" Neighborhood Retail Commercial District, "FSO" Free Standing Sign Overlay District, and "GGP" Gambling Games Prohibition District.
4. **Existing Land Use (site):** The site contains a 2-story structure that was originally constructed as "Washington School". The building was most recently occupied by daycare and dance studio uses.
5. **Adjacent Zoning and Land Use:**

North – "R1-60"; Uses consist of single-family dwellings.

South – "R1-60"; Uses consist of single-family dwellings.

East – "R1-60" & "R-3"; Uses consist of single-family dwellings.

West – "R1-60"; Uses consist of single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located within a predominantly low-density residential area to the west of Indianola Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Indianola Hills Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2015. A Final Agenda was mailed to the neighborhood association on September 11, 2015. Additionally, separate notifications of the hearing were mailed on August 28, 2015 (20 days prior to the hearing) and on September 4, 2015 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

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 Indianola Hills Neighborhood Association notices were mailed to Libbie Willert, 626 Pleasant View Drive, Des Moines, IA 50315.

The applicant is required to conduct a neighborhood meeting with the surrounding property owners and neighborhood representatives and will be available to provide a summary of the events at the public hearing.

- 8. Relevant Zoning History:** On June 29, 1988, the City Council approved Ordinance Number 11,200, to rezone the property to Limited "C-1" Neighborhood Retail Commercial District, with the condition that use of the property is limited to those uses allowed in the "R-3" District and daycare facilities.

On January 9, 2006, the City Council approved Ordinance 14,536 to rezone the property from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District, with the following conditions:

Only the following uses of structures or land shall be permitted upon the Property:

- (1) Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
- (2) Daycare facilities.
- (3) Dance studios.

The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.

Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.

Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

- 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. Des Moines' 2020 Community Character Plan:** The 2020 Community Character Land Use Plan currently designates that subject property as Low-Density Residential. Therefore, the requested rezoning to a Limited "C-1" District requires the future land use designation to be revised to Commercial: Pedestrian-Oriented, Neighborhood Node. Staff believes that this designation is appropriate so long as any use of the property is in compliance with the recommended the zoning conditions. Staff believes that the impacts of allowing additional use of the property for art studios and offices would be comparable to the uses that are currently allowed on the property, including dance studio, daycare, and multiple-family residential uses.
- 2. Parking & Access:** There is an existing off-street parking lot to the west of the building that contains approximately 26 parking spaces. The applicant is not proposing to modify

the existing site and would not change the access location. Prior to issuance of the any Certificate of Occupancy for future reuse of the building, the applicant will be required to submit a parking analysis that demonstrates they satisfy the minimum off-street parking requirements contained in City Code Section 134-1377(a). If additional parking spaces are required, the applicant must provide additional parking spaces in accordance with all site plan requirements, unless the Zoning Board of Adjustment grants an appeal to reduce the number of required off-street parking spaces.

Staff recommends retention of the current zoning condition that requires “buffering to be installed on the eastern boundary of the property if the adjoining portion of the property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area”.

- 3. Permit & Development Center Comments:** Any construction on the site and/or building renovations shall be in compliance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center. Any new construction may also require review and approval of a Site Plan by the Permit and Development Center.

If at any time the structure is used for multiple-family residential, a Site Plan that satisfies the Design Guidelines for Multiple-Family Residential must be reviewed and approved by the Plan & Zoning Commission.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Sasha Kamper asked if the owner has made any improvements since taking ownership.

Erik Lundy stated they have taken out permits to improve the interior of the building.

Sasha Kamper stated the exterior pictures shown imply the lawns are not being maintained.

Erik Lundy stated he is not aware of any code violations in terms of the appearance or whether the property has been a nuisance structure.

Sasha Kamper stated there have been multiple requests to rezone this property and the scope seems to keep creeping and it looks like most of the surrounding area is residential.

Erik Lundy stated that previous changes have been incremental so that future changes go through the same process. When it was initially rezoned to just allow the daycare, it was previously “R3” giving it some ability to convert to apartment buildings. Now with the dance studio it has been difficult to get an occupant to the building so they would like to add artist studios and office uses.

Anthony Lyman 3401 SW 14th Street stated when he purchased the property, the inside was converted and utilized for a daycare for about a 10 year stint. He acquired the property just because he lived in the area, saw it for sale and saw that it was getting actioned off. The primary goal is to extend usages so there are more options to keep the

building occupied. A daycare occupied the property until the past year. The building itself has always been maintained. However, there have been recent break-ins and vandalism to the property. There has been interest shown for the property. Daycares, dance studios, art studios and office uses have been the expressed interest.

John "Jack" Hilmes asked if the building was currently vacant and if so how long has it been vacant.

Anthony Lyman stated yes it is currently vacant and has been empty for approximately one year of a permitted use. He had his office there until he was informed that office is not a permitted use. He can only have a daycare or a dance studio.

John "Jack" Hilmes stated there is a response card that suggest the building needs some improvements in order for occupancy and the expense would probably be beyond the applicant's capability.

Anthony Lyman stated the substance architecture went through for the art studio and they had an extensive estimate of \$798,000 to \$1,000,000 to take that building and bring it up to current standards across the board. To rip out the entire parking lot, put in a new drainage system and reinstall it would be approximately \$340,000. He is not sure how much material or anything. He has let that architectural group go through the building a bunch of times. They have had people walk in and talk when he has not been there, so maybe someone picked up on that information. In addition, he did loan the building to the Iowa State University, Architecture 401 class to come in and do diagrams of what the building could be. He believes the response card may be referring to the series of four break-ins with significant damage inside the building. Currently, there are permits active to fix the damage to the building. The structure itself is phenomenal and he could not see doing anything to the exterior of the building.

John "Jack" Hilmes asked if it is feasible that the uses asked for now will be able to occupy the building based upon the cost of bringing it back to code.

Anthony Lyman stated yes, he has a letter of intent for a daycare to go back in there.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition of the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Tim Fitzgerald stated he supports the arts. He does not believe the request will be detrimental to the neighborhood.

JoAnne Corigliano stated she is glad to see the owner wants to keep this building viable. She supports the applicant's request.

Sasha Kamper stated she also applauds the effort in doing whatever he can to save a historical building. She encouraged the applicant to maintain the grounds.

John "Jack" Hilmes stated he hopes the applicant can pull it off because his observation has been from time to time the Commission votes affirmatively on these projects and rezoning request and then six, eight, ten months or a year later you are driving by the property that you know you have been concerned with and you were very excited to see something happen and nothing happens.

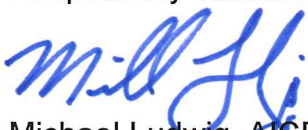
COMMISSION ACTION:

Jann Freed moved staff recommendation Part A) to find the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; Part B) approval of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node and Part C) approval of a rezoning the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions:

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices.
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

Motion passed 10-0.

Respectfully submitted,



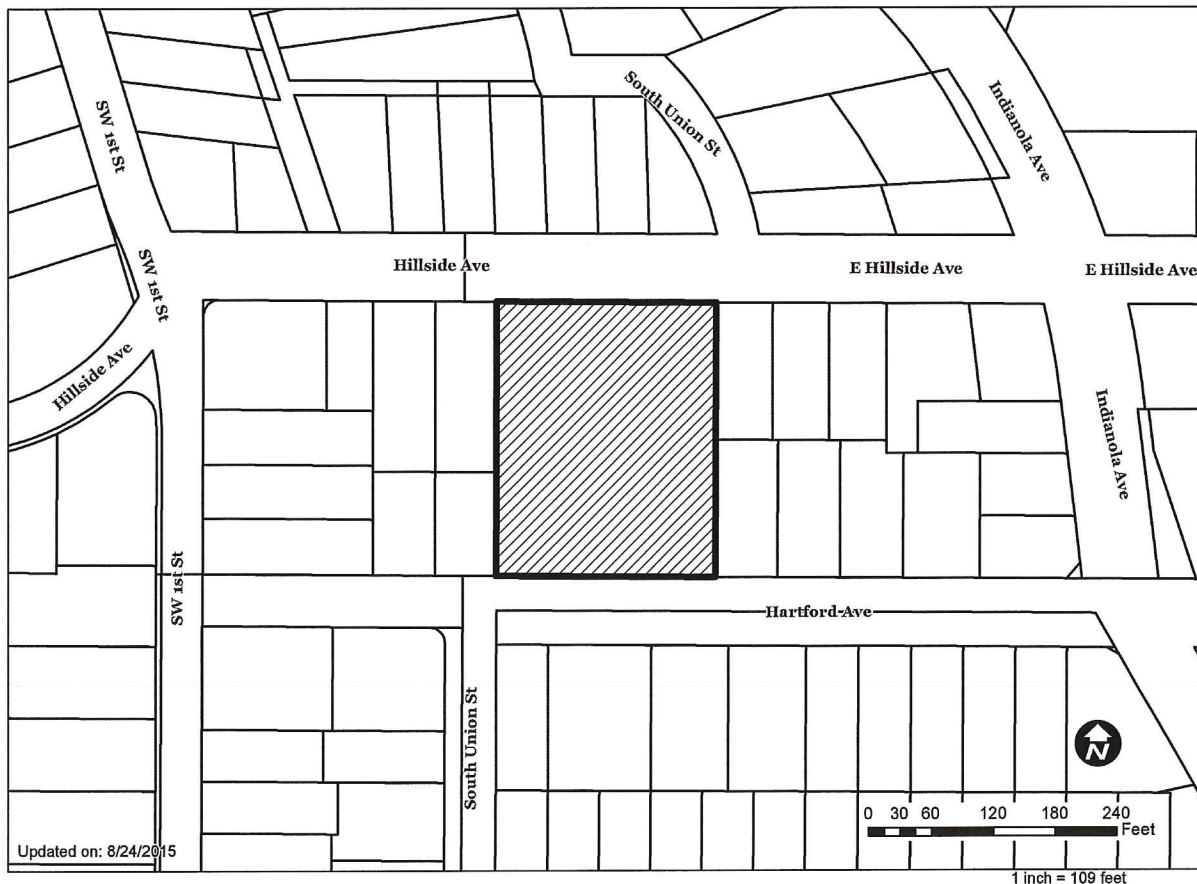
Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) property located at 2 Hartford Avenue.				File #		
				21-2015-4.19		
Description of Action	Approval of request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node.					
2020 Community Character Plan		Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node.				
Mobilizing Tomorrow Transportation Plan		No Planned Improvements.				
Current Zoning District		Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District		Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		3	1			
Outside Area						
Plan and Zoning Commission Action		Approval	10-0	Required 6/7 Vote of the City Council	Yes	
		Denial			No	X

Lyman Enterprises, LC, 2 Hartford Avenue

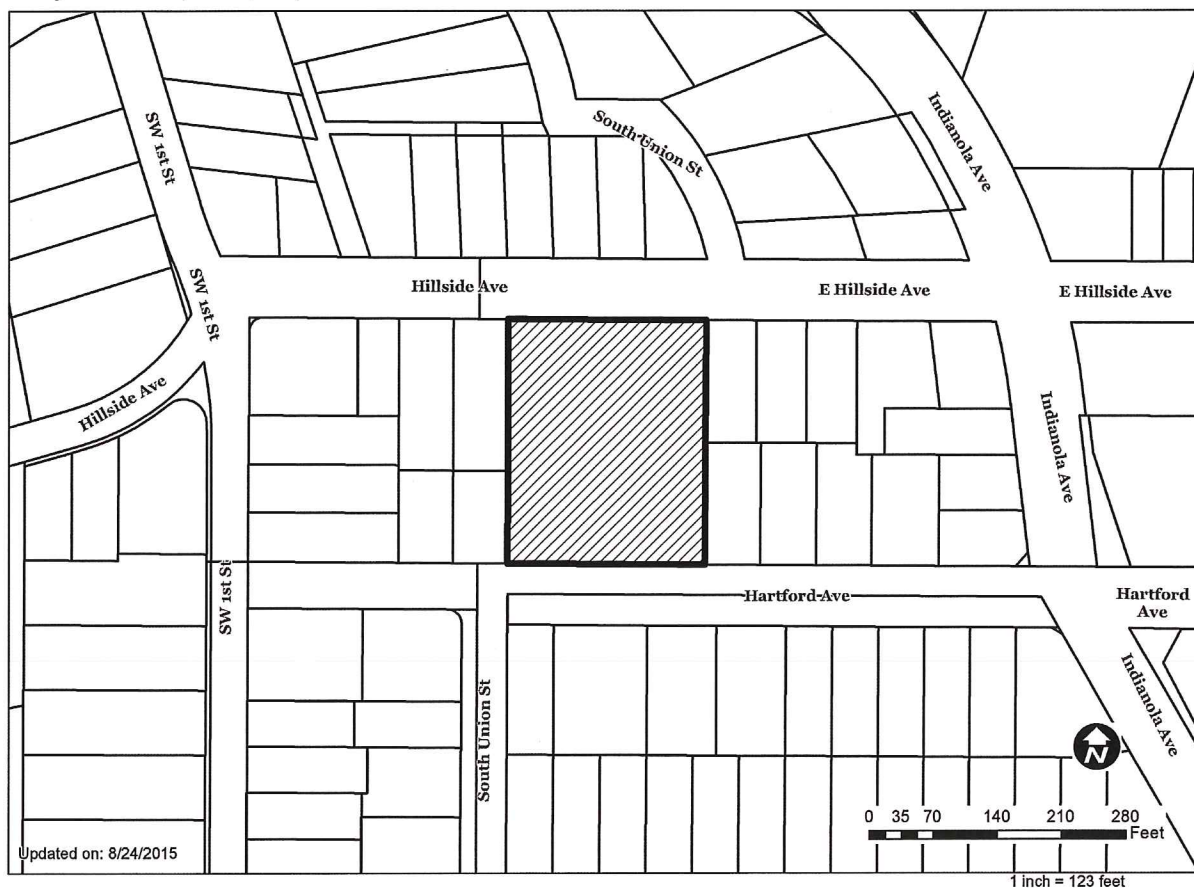
21-2015-4.19



Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) property located at 2 Hartford Avenue.				File #
				ZON2015-00165
Description of Action	Approval of request to rezone property from Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses subject to conditions.			
2020 Community Character Plan	Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node.			
Mobilizing Tomorrow Transportation Plan	No Planned Improvements.			
Current Zoning District	Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	1		
Outside Area				
Plan and Zoning Commission Action	Approval	10-0	Required 6/7 Vote of the City Council	Yes
	Denial			No X

Lyman Enterprises, LC, 2 Hartford Avenue

ZON2015-00165



Item ZON2015-00165

Date 9/5/2015 23

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name

Jeff Clayton - owner

Two Rivers Realty

SEP 14 2015

Signature

[Signature]

DEPARTMENT

Address

10. E. Hillside

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

*Very hopeful This will be
office or art studios and
not housing!*

Item ZON2015-00165

Date 9-8-15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name

William Bruce Decenas

Signature

[Signature]

SEP 14 2015

Address

1973 SW 15

EXECUTIVE

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

*HE HAS NO MONEY TO MAKE IMPROVEMENTS
TO PROPERTY FOR THE ZONING HE WANTS
THIS IS JUST A TRICK TO MAKE THE BUILDING
MORE ATTRACTIVE TO SELL*

Item ZON2015-00165 Date 9-8-15

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

No answer

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name WILLIAM DAVIS

Signature William Davis

Address 23 S.W. HILLSIDE AVE.

SEP 14 2015

DEPARTMENT

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

Item ZON2015-00165 Date 09/8/15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Alondra Martinez

Signature Alondra Martinez

Address 1971 S. Union St

SEP 14 2015

DEPARTMENT

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

Approving.

Des Moines IA.
50315.

23

Item ZON2015-00165 Date Sept 9, 2015

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

RECEIVED

COMMUNITY DEVELOPMENT Print Name James P Rice

Signature

James P. Rice

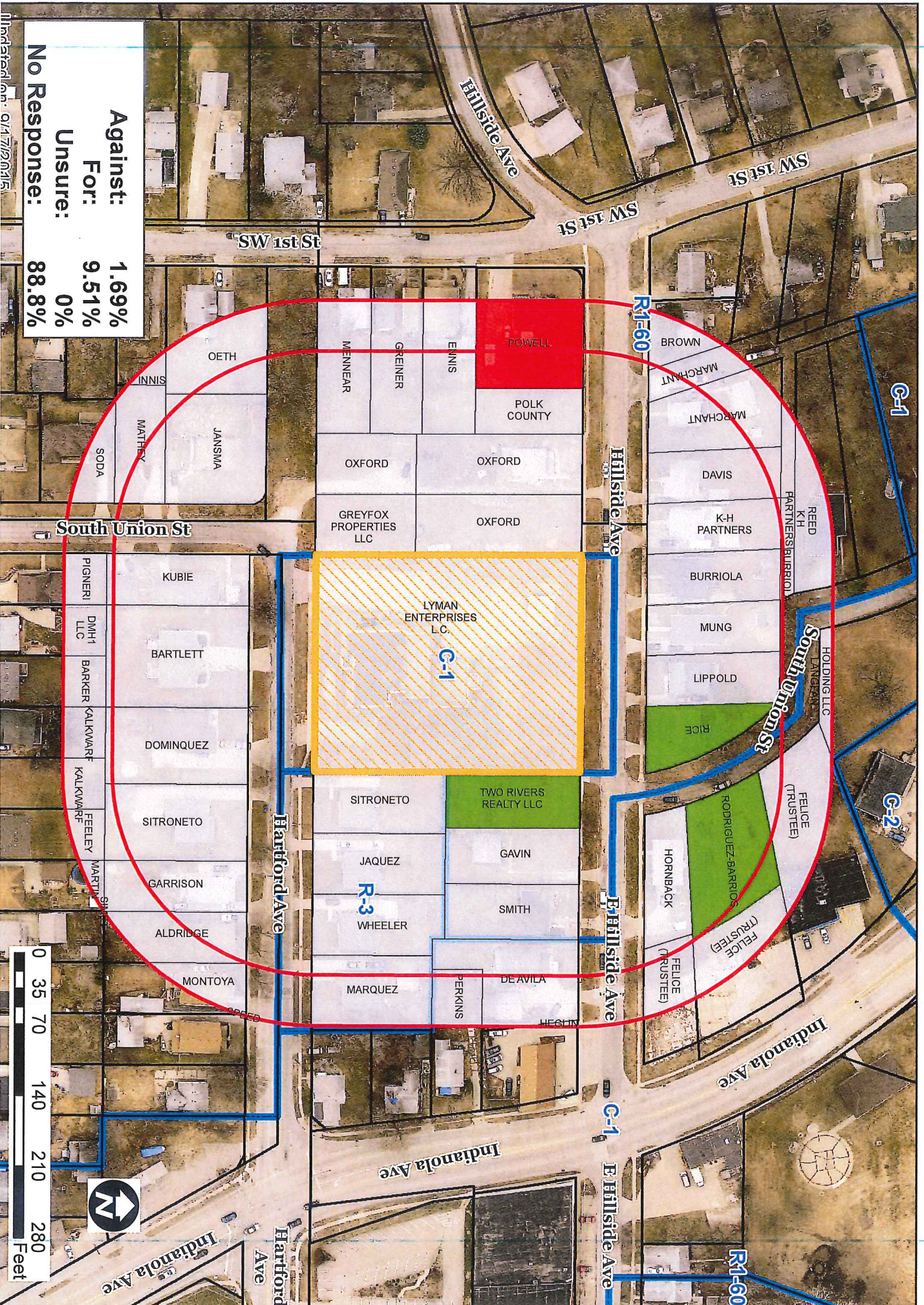
Address

5 Hillside Ave DSM, IA

SEP 14 2015

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

50315



Against:	1.69%
For:	9.51%
Unsure:	0%
No Response:	88.8%