



Date January 11, 2016

RESOLUTION SETTING HEARING ON REQUEST FROM DALE JONES TO REZONE PROPERTY LOCATED AT 712 AND 718 SE ASTOR STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held December 17, 2015, its members voted 8-2 in support of a motion to recommend DENIAL of a request from Dale Jones (owner) to rezone real property locally known as 712 and 718 SE Astor Street ("Properties") from "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow for an application for a Conditional Use Permit from the Zoning Board of Adjustment for a junk/salvage yard to expand the existing operation, due to the long term plan for redevelopment of the area; and

WHEREAS, the Property is legally described as follows:

Lots 14 through 20 of Block 5, HAWTHORN GROVE, an Official Plat, 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 January 25, 2016, 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.

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

FORM APPROVED:

[Handwritten signature]

Lawrence R. McDowell
Deputy City Attorney

(ZON2015-00221)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, TOTAL, MOTION CARRIED, APPROVED.

CERTIFICATE

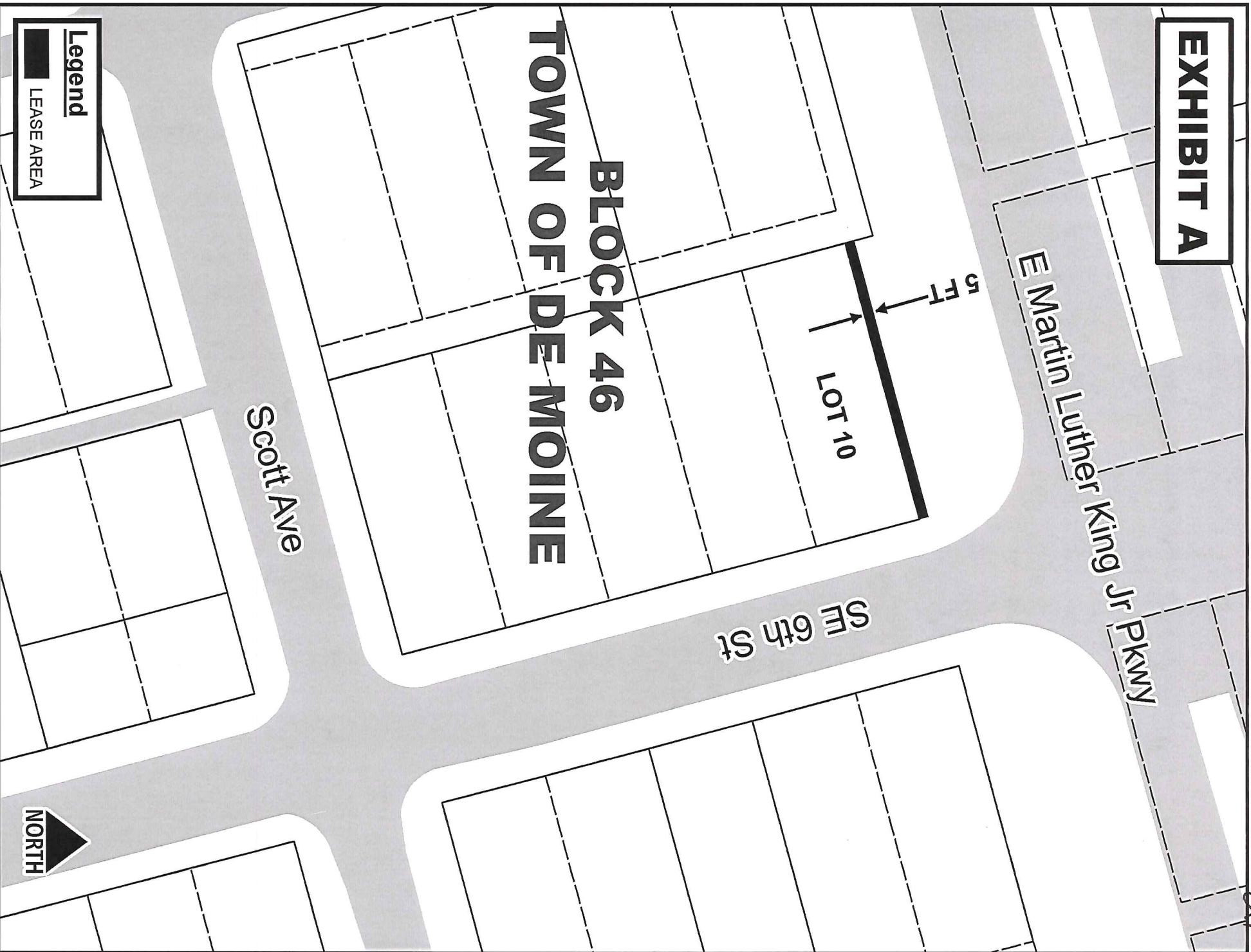
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

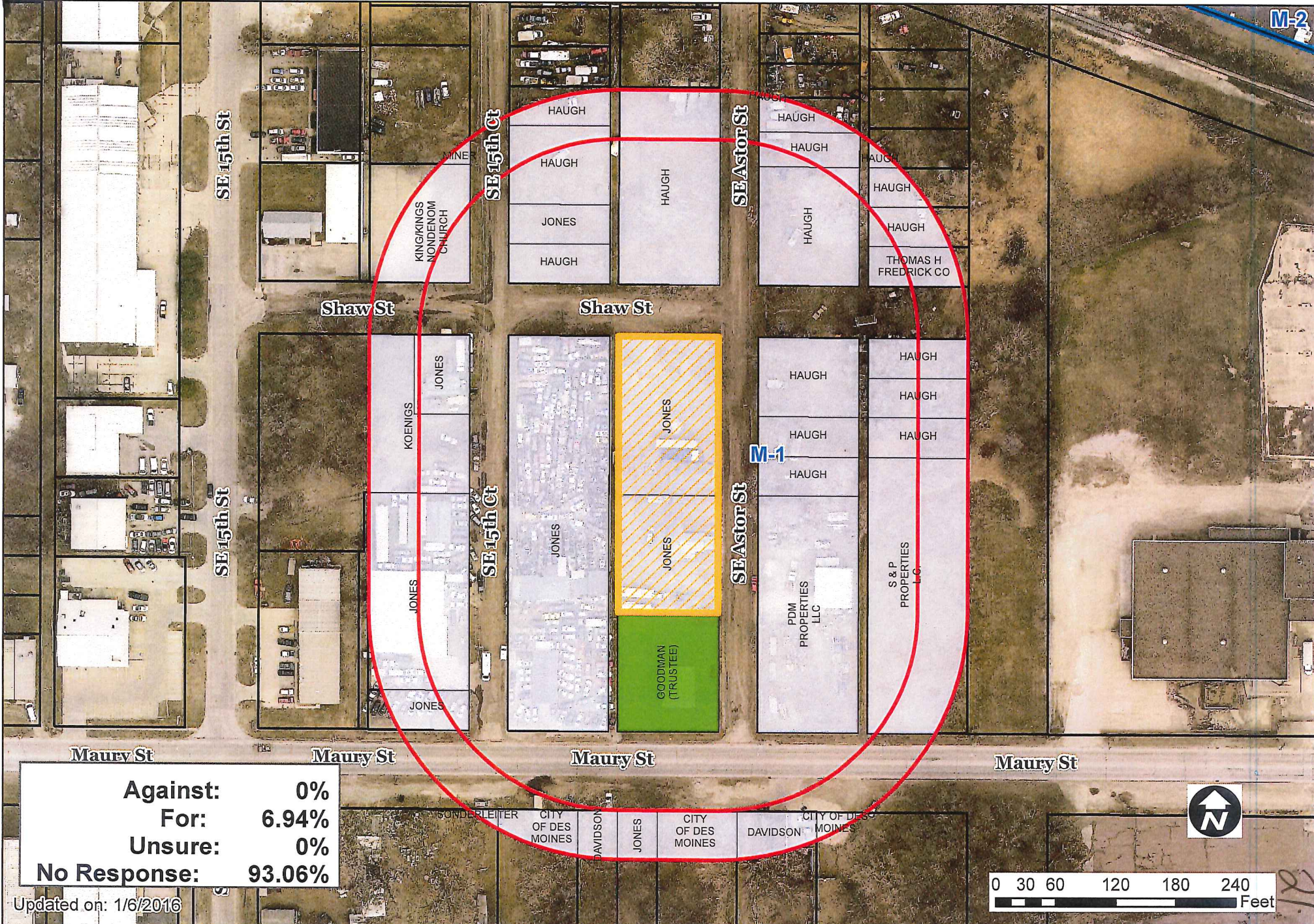
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

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

**EXHIBIT A**





Against:	0%
For:	6.94%
Unsure:	0%
No Response:	93.06%

Updated on: 1/6/2016

18



January 6, 2016

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 December 17, 2015, the following action was taken regarding a request from Dale Jones (owner) to rezone property located at 712 and 718 Southeast Astor Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 8-2 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 staff recommendation regarding Part A) to find that the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of General Industrial and Part B) **DENIAL** of rezoning the property to an "M-2" Heavy Industrial District, due to the long term plan for redevelopment of the area. (ZON2015-00221)

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of General Industrial.

Part B) Staff recommends denial of rezoning the property to an "M-2" Heavy Industrial District.

### Written Responses

1 In Favor

1 In Opposition

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is seeking to rezone the subject property to "M-2" Heavy Industrial District in order to allow additional storage of inoperable vehicles in conjunction with the existing junk/salvage yard (Jones Enterprise & Repair) to the west. This proposed expansion area is separated by the existing salvage yard by a north/south alley Right-of-Way. The City's Real Estate Division has indicated that they are not willing to consider sale of this Right-of-Way at this time since it is within an area that is planned for a future expansion of the City's Municipal Service Center. However, the Real Estate Division notified the applicant on December 4, 2015, that they may be willing to lease the Right-of-Way to the applicant for temporary use. However, any lease of the Right-of-Way for use as a salvage yard would require it to be both vacated and rezoned to "M-2" District. At this time, the applicant has not filed an application to seek vacation of the Right-of-Way or filed an amended rezoning application to include this Right-of-Way area. If this is the applicant's intent, they should request that the Plan & Zoning Commission continue the public hearing on this request so that all requests can all be considered simultaneously.

If a rezoning to "M-2" District is approved by City Council, the applicant must then obtain a Conditional Use Permit from the City's Zoning Board of Adjustment in order to use the property for a junk and salvage yard. If the rezoning to "M-2" District is denied by City Council, the applicant would then be eligible to apply for a Use Variance from the City's Zoning Board of Adjustment for the proposed use.

- 2. Size of Site:** 100 feet by 280 feet (28,000 square feet or 0.64 acre). The existing salvage yard measures 100 feet by 400 feet (40,000 square feet or 0.92 acre).
- 3. Existing Zoning (site):** "M-1" Light Industrial District and "FSO" Freestanding Sign Overlay District.
- 4. Existing Land Use (site):** The subject property includes two single-family dwellings that would be demolished to accommodate the salvage yard use.

**5. Adjacent Land Use and Zoning:**

**East** - "M-1"; Uses include undeveloped parcels and scattered salvage yard uses.

**West** - "M-1"; Uses is Jones Enterprise & Repair's salvage yard use.

**North** - "M-1"; Uses include undeveloped parcels and scattered salvage yard uses.

**South** - "M-1"; Uses is Midwest Reptile Breeders.

**6. General Neighborhood/Area Land Uses:** The subject property is located in an area that includes several automobile-repair and salvage yard uses. Intense industrial uses, such as National Bi-Products and Iowa Packing Plant, are located to the east.

**7. Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood. However, all neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on November 25, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on November 25, 2015 (20 days prior to the hearing) and December 7, 2015 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on December 11, 2015.

The applicant is required to hold a neighborhood meeting. They will be available to provide a summary at the public hearing.

**8. Relevant Zoning History:** The adjoining salvage yard use is permitted by a use variance granted on October 16, 1984 for Lots 1-6 of Block 5 of Hawthorne Grove Addition. At that time, the Board also granted relief to allow construction of a fence within 1' of the north property line adjoining Shaw Street and within 5' of the west property line adjoining SE 15<sup>th</sup> Court.

The applicant has also applied for a use variance for Lots 11-14 of Block 4 of Hawthorne Grove Addition. On May 20, 1986, the Board of Adjustment approved a motion to defer to the request to the Plan and Zoning Commission to rezone the property. However, the applicant did not seek further action by the Plan and Zoning Commission at that time.

In 2005, the applicant filed an application to rezone the subject property to "M-2" District (Docket ZON2015-00103). However, the applicant withdrew that request prior to the Plan & Zoning Commission taking action.

The existing salvage yard has been cited multiple times over the years for storing inoperable vehicles outside of the permitted salvage yard area. The recent case (COD2014-05915) has been under enforcement since September 22, 2014.

**9. 2020 Community Character Land Use Plan Designation:** General Industrial.

**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. 2020 Community Character Plan:** The proposed rezoning to the “M-2” Heavy Industrial District is compatible with the General Industrial future land use designation. However, staff does not believe that the “M-2” Heavy Industrial District is appropriate for this site given the close proximity of both East Martin Luther King, Jr. Parkway (Southeast Connector) and the future realignment of northbound SE 14<sup>th</sup> onto Southeast 15<sup>th</sup> Street. East Martin Luther King, Jr. Parkway is located approximately 800 feet north of the subject property and northbound Southeast 15<sup>th</sup> Street would be located approximately 100 feet to the west of the subject property. Staff believes that these major roadways will be catalysts for redevelopment. Allowing expansion of the salvage yard operation, and its potential environmental impacts, would be detrimental to redevelopment opportunities.
- 2. Conditional Use Permit Review Criteria:** Should the rezoning be granted by City Council, the applicant would be eligible to seek a Conditional Use Permit from the Zoning Board of Adjustment for a use in an “M-2” District that is not otherwise allowed in the “M-1” District. If the applicant were to apply for such in the future, the following regulations contained in City Code Section 134-1122(5) would apply:

*Any other use not permitted in the M-1 light industrial district, or which does not comply with the limitations on such use applicable in the M-1 district, is permitted in the M-2 heavy industrial district only upon approval by the board of adjustment after public hearing. In its determination upon the particular uses at the location requested, the board of adjustment shall consider all of the following:*

- a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;*
- b. Such use shall not impair an adequate supply of light and air to surrounding property;*
- c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;*
- d. Such use shall not diminish or impair established property values in adjoining or surrounding property;*
- e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;*
- f. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and*

*dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.*

- g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.*
- h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.*
- i. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.*
- j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.*
- k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.*

**3. Additional Information:** Any future use of the property for a salvage yard use would be subject to provision of a 25-foot front yard setback for any area used for outdoor storage, unless the Zoning Board of Adjustment granted an appeal of this requirement. Provision of a 25-foot setback along both the north and east front property lines would cause the useable area on the property to measure 75 feet by 255 feet (19,125 square feet).

Should the rezoning be denied by the City Council, the applicant would be eligible to request a Use Variance from the Zoning Board of Adjustment. If a Use Variance is requested, it is likely that Staff would recommend that the Board use the Conditional Use Permit criteria (contained in the previous section of this report) as a baseline for their review, in addition to the criteria necessary for granting a Use Variance.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

Dale Jones 3700 Kinsey (owner) and Alicia Moran 7500 Meadowland (daughter). Mr. Jones stated he contacted all but one of his neighbors. There are a lot of issues in that area with dumping, graffiti, and undeveloped sewer system. They have worked hard to improve the area. They have a lawyer that was unable to attend this meeting so he is not sure if he should ask for a continuance, especially after one of his neighbors sat through the entire meeting.

Jacqueline Easley She asked if there was any action the Commission wanted to take at this point.

Brian Millard asked if the applicant feels that the lawyer can make a case that he could not.



Dale Jones stated his lawyer recommended they ask for a continuance.

Jacqueline Easley asked if he contacted staff after he had that discussion with his attorney.

Dale Jones stated he had no chance to communicate the request to the City.

John "Jack" Hilmes asked if the applicant believes they can effectively present their position without their lawyer.

Dale Jones stated he believes he can.

Alicia Moran passed out a flyer with their proposed title, topic, objective, general description, intent, benefit to the community and pictures of the alley. Stated their objective is to transform currently vacant land in disrepair to a usable plot of land and to dispose of two houses, connect properties with a continuous fence and to plant trees in the community. Currently the houses are labeled as M-1 Light Industrial District. This land is continuously used as a dumping ground for all types of things and because the land is owned by Jones Enterprises & Repair it becomes their responsibility to clean it up. There is an alley that the City of Des Moines owns between Astor and 15<sup>th</sup> Court that is riddled with large potholes and is unused. Their intent is to improve the environment with the installment of a white metal fence, which is also the type of fence currently in place on the main property (1520 Maury Street) to enclose the land. They believe that the fence would dissuade those who are dumping on the land. They are also requesting permission to demolish the two houses that are located at 712 and 718 Astor Street and to rezone those properties from M-1 zoning to M-2 zoning. If their request is approved this will allow them to create an enclosed space for use of additional space for their salvage yard business. The City has rejected their application to purchase the alley, which would allow a continuous fence, and instead said they could lease the alley. If they are allowed to purchase the alley it would create a more streamlined look for the community. They also plan to plant trees along the fence line along Shaw Street. Jones Enterprises & Repair has spoken with businesses and community members within the 250 feet regarding this proposal and has received verbal agreement to support the rezoning of property and the transformation to accommodate their growing business.

JoAnne Corigliano asked if the houses on Astor are vacant.

Dale Jones stated yes they are.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Ken Miner 611 SE 15<sup>th</sup> stated he has owned this property for 24 years. Over the 24 years he has continuously cleaned up the area. He believes the sale of the alley is a good idea in order to fence it and keep it clean. The two houses are fire traps and will probably get someone killed. He asked that the applicant's request be approved.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

JoAnne Corigliano asked if they are trying to do the same as Wrench and Go.

Dale Jones stated Wrench and Go is a neighbor. His business is a little bit smaller than they are. Jones Enterprises and Repair has a lot of history because they have been there so long. His business is a little different from Wrench and Go, in that he sells cars.

JoAnne Corigliano asked if they are on the north side of Maury.

Dale Jones stated they are what is called Phase 2 of the new Municipal Service Center. This has been Phase 2 for quite some time, until they decide they want this. He is not building a big structure on this property, they are just trying to fence it in, to keep it clean, and keep his business looking good while still being able to survive.

JoAnne Corigliano asked if the City is looking more south of Maury rather than north of Maury for their redevelopment.

Jason Van Essen clarified the long term plan is East 14<sup>th</sup> to be converted to one-way pairs with 15<sup>th</sup> in this area. 15<sup>th</sup> Street is envisioned to carry northbound traffic, East 14<sup>th</sup> southbound traffic. The Municipal Service Center pertains to the Engineering Real Estate department. They are not willing to sell this alley because at some point future phases of the Municipal Service Center may end up down in this area. Therefore, if the City sells the alley now and needs it in the future, it would have to reacquire the land. There is foreseen development pressure to the north and also to the west.

Mike Ludwig asked for clarification that the Municipal Service Center is north of the subject property.

Jason Van Essen stated yes.

JoAnne Corigliano asked why this property is not useable under "M-1" zoning. Would the applicant's original property be grandfathered or is it zoned "M-2".

Jason Van Essen stated they obtained a use variance in the mid 80's that allows their current operation.

Ken Miner stated there is not a single alley in the area being used for an alley. All of them are either a dumping sites or somebody has taken them over and cleaned it up.

Dale Jones pointed out the alley the City already sold him. He put a big building up. He showed pictures of the frontage of the offices and pictures of the cars for sale. The alley in question cuts his property in half. His neighbor has already given him a letter approving of the vacation of the alley because he sees how he has been maintaining with the exception of pot holes. He cannot do much with it unless the City sells it to him. He sends a letter each year requesting the purchase of this alley.

Sasha Kamper asked about the recent zoning enforcement violation (September 2014) where the cars have been out of the perimeter of the storage area.

Dale Jones stated yes they had a violation with their license and it was resolved. Then he had some cars where the customer brought them in to be repaired with no plates on them.

He also owns about 6 houses in this area and most of them have rental permits and are rented out. Some of those incidents have caused him to get violation because his renter is the one that has something sitting out. Since 1983 he believes they have quickly remedied any violations he has ever had.

John "Jack" Hilmes asked if he has a plan B.

Dale Jones stated he has no plan B. He just hopes it doesn't come to that. He just wants his request approved so they can clean it up. He has four wheelers that drive on the lot because it is not fenced. They splash mud all over his new fences. He works with the City to comply with their recommendations, such as the fence and big boulders to place in the front of his property. The car display lot is grandfathered in.

JoAnne Corigliano stated she does not want M-2 zoning because of the future of that area. She asked could there be some temporary thing done for him through the Zoning Board of Adjustment until such time he would have to remove it.

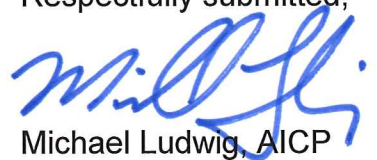
Mike Ludwig stated that the applicant cannot seek a use variance until he is denied zoning first.

**COMMISSION ACTION:**

John "Jack" Hilmes moved staff recommendation, Jann Freed seconded for APPROVAL of Part A) to find that the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan existing future land use designation of General Industrial and DENIAL of Part B) to rezone the property to an "M-2" Heavy Industrial District, due to the long term plan for redevelopment of the area.

Motion passed 8-2 (Brian Millard and Tim Fitzgerald voted in opposition).

Respectfully submitted,



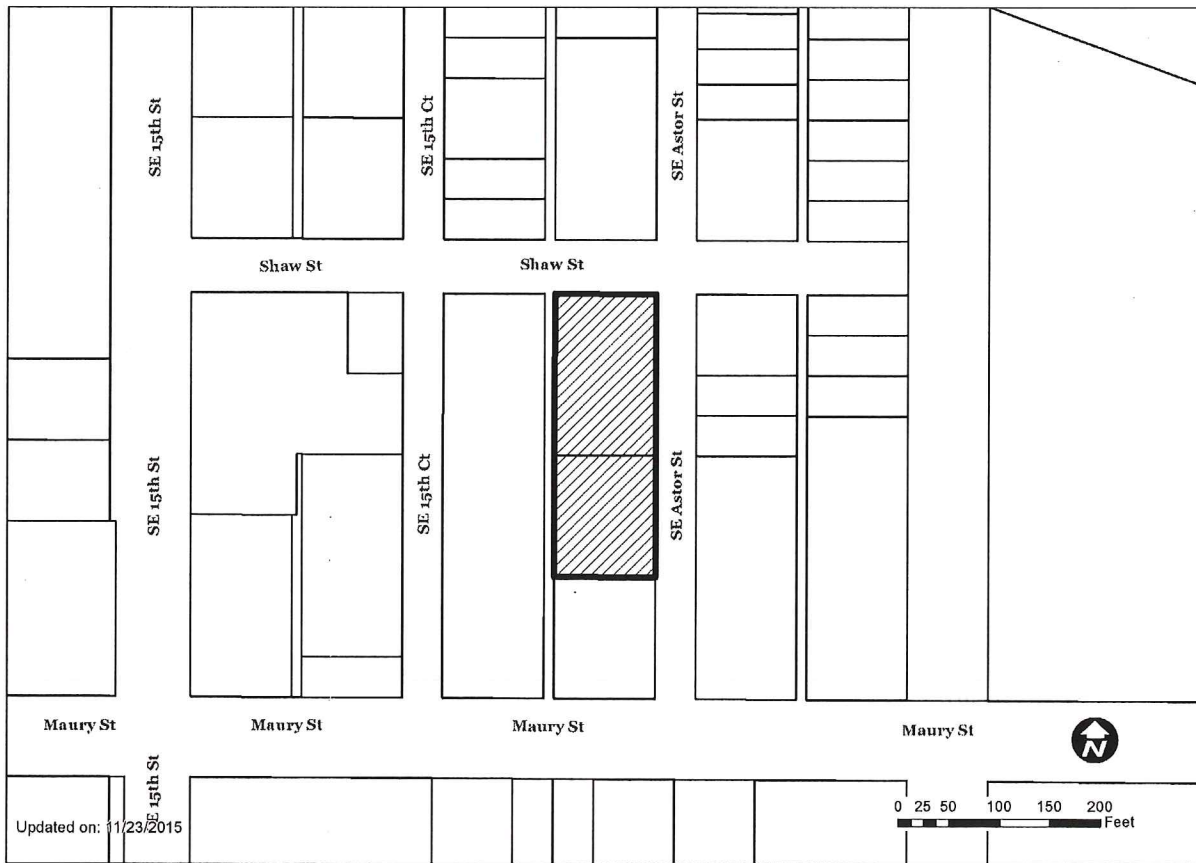
Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

Dale Jones (owner) for property located at 712 and 718 Southeast Astor Street.			File #		
			ZON2015-00221		
<b>Description of Action</b>	Denial of the request to rezone property from "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow for an application for a Conditional Use Permit from the Zoning Board of Adjustment for a junk/salvage yard to expand the existing site to the west.				
<b>2020 Community Character Plan</b>	Current: General Industrial. Proposed: N/A.				
<b>Mobilizing Tomorrow Transportation Plan</b>	2025-2034: Extend US 69/ SE 15 <sup>th</sup> Street. Construct 3 lanes on new alignment from East Court Avenue to Hartford Avenue.				
<b>Current Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.				
<b>Proposed Zoning District</b>	"M-2" Heavy Industrial District and "FSO" Freestanding Signs Overlay District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1				
Outside Area		1			
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	8-2		No	

Dale Jones, 712 & 718 Southeast Astor Street

ZON2015-00221



1 inch = 112 feet

Item ZON2015-00221

Date 12-13-2015 21

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

*REC'D 12/14 P 82*

RECEIVED  
COMMUNITY DEVELOPMENT

(Circle One)

Print Name RON GOODMAN

DEC 23 2015

Signature *Ron Goodman*

DEPARTMENT

Address 1350 Maury

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

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

**Gary Maxwell**

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To: Drost, Bert A.  
Subject: RE: Rezoning of 712/718 Southeast Astor

ZON 2015- 00321

Mr. Drost, Thank you for responding to my concerns.  
I own the property at 714 se 15<sup>th</sup> street here in Des Moines,  
I am totally against the proposed rezoning of the address of 712,718 se Astor, the city in the beginning stages of turning  
this area around to revitalize the business community.  
The addition of a larger junk yard by Mr. Dale Jones is not what we want to see in this area.  
I hope the city can see its way clear to not let this eye sore expand  
Thank You,

  
Gary Maxwell  
Ralph N Smith Inc

*Not within 250ft notification area*





Jones Enterprises & Repair Inc.  
1520 Maury Street  
Des Moines, Iowa 50317  
(515) 243-7412

Proposed Title	Rezoning property from "M-1" Light Industrial District to "M-2" Heavy Industrial District
Topic	Rezoning 712 and 718 Astor
Objective	To transform currently vacant land in disrepair to a useable plot of land. Dispose of two houses. Connect properties with a continuous fence and plant trees in the community.
General Description	Currently the land at 712 and 718 Astor Street houses are two houses. The houses are labeled as "M1" Light Industrial District. The land is continuously used by litterers to discard unwanted items and trash. Since this land is owned by Jones Enterprise & Repair it becomes their responsibility to remove this garbage and debris. The alley between Astor and 15 <sup>th</sup> Court is riddled with large potholes and is unused.
Intent	Jones Enterprise & Repair's intent is to improve the environment with the installment of a white metal fence to enclose the land. The fence is consistent with what is currently in place on the main property owned by the company at 1520 Maury. The fence would dissuade litterers from depositing garbage on the property. Jones Enterprise & Repair also proposes the demolition of the two houses on the property at 712 and 718 Astor Street. The intent of the company is to receive approval for rezoning from "M1" to "M2" for both properties. Upon approval Jones Enterprise & Repair plans on applying for a Right-of-Way for both properties. Once approval is received Jones Enterprise & Repair plans to demolish both houses to create an enclosed space for use as additional space for their salvage yard business. In doing this Jones Enterprise & Repair is intending to purchase the alley between 15 <sup>th</sup> Court and Astor Street in order to connect all property with one continuous fence. However, the city has rejected an application to purchase the alley and instead has requested leasing. Jones Enterprise & Repair is still committed to purchasing so that a continuous fence can be put in creating a more streamlined look for the community. Once the houses have been removed and the fence has been installed it is the intent of Jones Enterprise & Repair to plant trees along the fence line along Shaw Street. Jones Enterprise & Repair has spoken with businesses and community members within 250 feet regarding this proposal and has received verbal agreement to allow the rezoning of property and transformation to accommodate Jones Enterprise & Repair's growing business.
Benefit to Community	Jones Enterprise & Repair's proposal would benefit the community by creating a cleaner looking environment. The fence line will prevent littering on the property. The sidewalk will allow the community a safe place to walk when using Astor Street. The trees planted along the fence line on Shaw Street will create a visual beautification of the property. Overall these improvements will greatly increase the aesthetic appeal of the land compared to its current state.



Current state of land showing recent littering





Current state of alley between 15<sup>th</sup> Court and Astor Street



718 Astor Street



712 Astor Street



Current picture of 1520 Maury showing prospected appearance of 712 and 718 Astor Street