

Date January 23, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
QUIK TRIP CORPORATION FOR AMENDMENT TO THE QUIK TRIP #0559R PUD  
CONCEPTUAL PLAN ON PROPERTY LOCATED AT 4021 FLEUR DRIVE**

**WHEREAS**, on May 9, 2016, by Roll Call No. 16-0806, the City Council approved Ordinance No. 15,472, rezoning property locally known as 4021 Fleur Drive ("Property") from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development with approval of the Quik Trip #0559R PUD Conceptual Plan, subject to said Plan being revised to require the relocation of the existing overhead electrical lines to an underground location; and

**WHEREAS**, on January 9, 2017, by Roll Call No. 17-0039, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on December 15, 2016, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from Quik Trip Corporation (owner), represented by Michael Talcott (officer), for a First Amendment to the Quik Trip #0559R PUD Conceptual Plan for the Property to allow removal of the requirement to underground the existing overhead electrical utility lines, subject to revision of the Plan to require replacement of the existing wooden utility poles in the Watrous Avenue right-of-way with black-colored metal or fiberglass poles unless cost-prohibitive; and

**WHEREAS**, on January 9, 2017, by Roll Call No. 17-0039, it was duly resolved by the City Council that the application of Quik Trip Corporation for review and approval of the proposed First Amendment to the Quik Trip #0559R PUD Conceptual Plan for the Property, as legally described below, be set down for hearing on January 23, 2017, at 5:00 p.m. in the City Council Chambers at the Municipal Services Center; 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 approved PUD Conceptual Plan; and

**WHEREAS**, in accordance with said notice, those interested in said proposed amendment to the approved PUD Conceptual Plan, 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 objections to the proposed First Amendment to the Quik Trip #0559R PUD Conceptual Plan for the Property, locally known as 4021 Fleur Drive and legally described as follows, are hereby overruled, and the hearing is closed:

THAT PART OF THE NW ¼ OF THE SE ¼ OF SECTION 20, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 33 FEET SOUTH AND 50 FEET EAST OF THE CENTER OF SAID SECTION; THENCE EAST ALONG THE SOUTH LINE OF WATROUS AVENUE, 490 FEET; THENCE SOUTH AND PARALLEL TO THE EAST LINE OF SOUTHWEST 21ST STREET, 235 FEET; THENCE WEST 490

Date January 23, 2017

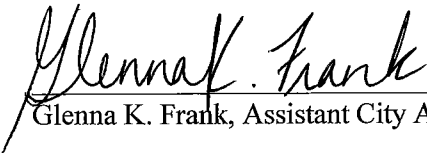
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FEET; THENCE NORTH TO BEGINNING; EXCEPT THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 33 FEET SOUTH AND 50 FEET EAST OF THE CENTER OF SAID SECTION; THENCE SOUTH 120 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF FLEUR DRIVE; THENCE EAST 2.0 FEET; THENCE NORTH 110.0 FEET TO A POINT 2.0 FEET EAST OF SAID RIGHT-OF-WAY LINE; THENCE NORTHEASTERLY TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WATROUS AVENUE WHICH IS 60 FEET EAST OF THE CENTER OF SAID SECTION; THENCE WEST ALONG SAID RIGHT OF WAY LINE 10 FEET TO POINT OF BEGINNING.

2. The proposed First Amendment to the Quik Trip #0559R PUD Conceptual Plan, as on file in the Community Development Department, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is hereby approved, subject to the revision identified above, and subject to the Community Development Director finding that such revision has been satisfied by amendment to the Plan.

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

FORM APPROVED:

  
Glenna K. Frank, Assistant City Attorney

(ZON2016-00200)

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

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December 16, 2016

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning regarding a request from Quik Trip Corporation (owner) represented by Michael Talcott (officer) for review and approval of a 1<sup>st</sup> Amendment to the Quik Trip #0559R PUD Conceptual Plan, on property located at 4021 Fleur Drive, to allow removal of a requirement to relocate overhead utilities underground within the adjoining Rights-of-Way. The subject property is owned by 4021 Investments, LLC.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 14-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

**APPROVAL** of the requested amendment to the PUD Conceptual Plan to remove the requirement to underground the existing overhead electrical utility lines, subject to replacement of existing wooden utility poles in the Watrous Avenue Right-Of-Way with black-colored metal or fiberglass poles, unless cost prohibitive: (ZON2016-00200)

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested amendment to the PUD Conceptual Plan to remove the requirement to underground the existing overhead electrical utility lines, subject to replacement of existing wooden utility poles in the Watrous Avenue Right-Of-Way with black-colored metal or fiberglass poles.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The approved PUD Conceptual Plan for Quik Trip #0559R required that the overhead electrical utilities be relocated underground. After working with MidAmerican Energy to achieve this requirement, the utility company has indicated that these lines are high voltage transmission lines which would generate a cost approaching \$1 million in order to have them relocated underground if it is even possible within the design constraints of the system. This cost becomes prohibitive to the developer based on the total project cost for the site redevelopment. Therefore, an amendment to the PUD Conceptual Plan to remove the requirement is being requested.
2. **Size of Site:** 2.64 acres or 114,997 square feet.
3. **Existing Zoning (site):** "PUD" Planned Unit Development and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Vacant land.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-80"; Use is the Wakonda Club (golf practice course and driving range).
  - South** – "C-2"; Uses are KDSM broadcast station and Wakonda Shopping Center.
  - East** – "R-3"; Uses are Wakonda Village Apartments.
  - West** – Limited "C-2" & "C-2"; Uses are Jimmy John's drive through restaurant, Skip's restaurant, and an existing Quik Trip convenience store/gas station.
6. **General Neighborhood/Area Land Uses:** The subject site is located on the Fleur Drive commercial corridor between the Des Moines International Airport and Downtown. There are residential neighborhoods to the east and west of the corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Watrous South Neighborhood and within 250 feet of the Grays Lake and Southwestern Hills Neighborhoods. The neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on November 28, 2016 and by mailing of the Final Agenda on December 9, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on November 23, 2016 (20 days prior to the hearing) and on December 5, 2016 (10 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 at the time of the mailing. The Watrous South Neighborhood Association notices were mailed to James Spiller, PO Box 35845, Des Moines, IA 50315. The Southwestern Hills Neighborhood Association notices were mailed to George Davis, 3124 SW 29<sup>th</sup> Street, Des Moines, IA 50321. The Grays Lake Neighborhood notices were mailed to Evan Shaw, 2615 Druid Hill Drive, Des Moines, IA 50315.

8. **Relevant Zoning History:** On May 9, 2016 by Ordinance No. 15,472, City Council approved the rezoning of the property from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development with approval of the Quik Trip #0559R PUD Conceptual Plan. This was subject to the PUD Conceptual Plan being revised to require the relocation of the existing overhead electrical lines underground.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Community Commercial. The proposed PlanDSM future land use designation is Community Mixed Use within a Community Node.
10. **Applicable Regulations:** In consideration of the criteria set forth in Chapter 18B of the Iowa Code, the application, accompanying evidence and proposed amendment to a PUD Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of the City Code and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the amended PUD Conceptual Plan as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** After approval of the existing PUD Conceptual Plan, the developer received feedback from MidAmerican Energy that the overhead lines in Watrous Avenue were high voltage transmission lines. It was further indicated that the estimated cost of relocating the overhead electrical lines underground would approach \$1 million, if it was even logistically possible without impacting other off-site components of the power distribution system.

The City has not typically required the underground placement of existing overhead lines in such cases where there are high voltage transmission lines involved. This has been due to the high cost nature of implementation as a percentage of overall project cost. However, staff has required replacement of standard wooden utility poles in many of these instances with more aesthetically designed black-colored poles. This has minimized their appearance on or adjacent to highly travelled corridors, such a Fleur Drive and Watrous Avenue. Staff believes that this would also be a reasonable

alternative in this situation in order to achieve the original intent of the City Council to minimize the visual impact of the overhead utilities with the redevelopment project. In this instance, it would involve the replacement of two poles along the Watrous Avenue frontage of the project.

## **SUMMARY OF DISCUSSION**

Carolyn Jenison arrived at 6:15pm

Erik Lundy presented the staff report and recommendation.

Ben Bruner Dickinson Law Firm, 699 Walnut Street, representing Quik Trip stated they were thankful to be able to amend the original PUD after learning from Mid-American Energy that underground lines were estimated to cost a minimum of one million dollars. He further stated that the power lines currently in place are high voltage lines that likely double the size of a regular distribution line. Some of the challenges with replacing the poles after discussions with Mid-American Energy include getting FAA approval on the height of the poles in accordance to its proximity to the Des Moines airport. There is concern with these poles, being high voltage, will not get the same approval at the height they were previously installed.

Greg Jones asked if it was correct to assume if the poles were left as they are that the FAA could not say anything, rather only regulate if they were subject to changes or replacements.

Ben Bruner stated that information was from Mid-American Energy and they were the ones that had brought up possible height requirements would have to be approved through the FAA if they were changed. He further explained the challenges and expenses in putting in fiberglass poles or steel replacement poles estimated at over \$100,000 each according to his contact Derrick Deegan, from Mid-American Energy. He states that the project should not absorb these unreasonable expenses and asks that this condition be removed from the site plan.

Joanne Corigliano clarified if we was requesting to just leave what is already there.

Ben Bruner stated that is correct and according to Mid-American Energy, these are high-voltage lines that they prefer not to touch until which time they need replaced due to repairs or damages.

John Jack Hilmes asked staff if there was an FAA overlay of the area so the commission could view what exactly are the requirements. He didn't believe that Mid-American would want to raise the height of the poles due to what was east and west of the property.

Mike Ludwig stated he did not have an FAA overlay for this area, but explained that the height requirements increase as they move away from the airport. He did not believe it would be an issue given other projects in the area have already been approved for construction at greater heights and are closer to the airport. He respects the concern and ultimately the FAA and airport engineers will have the final say.

John Jack Hilmes stated this is a long way from the airport and would like to have accurate information.

Joanne Corigliano brought up concerns about using fiberglass.

Greg Jones explained this is very strong material and durable enough to withstand potential damages.

Greg Wattier asked if this was a request or a requirement to change or remediate the poles.

Erik Lundy stated that there was a zoning condition requirement for the power lines to be underground and this is a recommendation to grant relief for not putting the lines underground due to the expense. It's not a standard, but rather it sets with the goals of Plan DSM.

Greg Jones asked staff if they had an idea what the cost is for regular non-high transmission poles.

Erik Lundy stated that light poles downtown ran between \$10,000-\$15,000 depending if it is a pedestrian design or not.

Greg Jones questioned how the poles would be nearly ten times the cost because they were high transmission poles.

Erick Lundy stated that he would like to hear from Mid-American Energy the costs on these.

Jann Freed stated that it is hard to take action when we don't know the potential costs of what staff is recommending. It was her opinion that Mid-American is not being a good strategic partner when it comes to the vision and goals that the commission is trying to apply and uphold the city. She further asked Ben to clarify if he had a price for what staff is recommending.

Ben Bruner stated that Mid-American cannot do a fiberglass pole as recommended but rather proposed an engineered steel with a cost of over \$100,000 each. A regular pole was quoted around \$7,500-\$10,000.

Jann Freed clarified again that what staff recommended could not be used. Jann asked staff how they felt about that and what would be the next recommendation if true.

Erik Lundy stated that they would like to talk to Mid-American Energy further to be sure the information is correct. However, to take this time and table the recommendation could potentially hold up the project. He stated that other similar projects around the city have been able to comply with the recommendation.

Mike Ludwig stated if the pole cost is in fact \$100,000 each, then the commission would be voting for \$200,000 in costs as there are two poles. It was suggested as an option to make motion which included language that is subject to verification of costs of the poles and FAA review of height of the poles to be completed before the City Council hearing next month. There is time to get the information prior to the meeting.

Joanne Corigliano stated she would like to see a black pole to minimize the visual clutter.

Mike Simonson stated he takes issue with having developers solve a much broader infrastructure issue when it comes to power lines. He compared the United States and Europe and how the US helped pay for the underground power lines in Europe. He has also been told that when Mid-American Energy sends out their staff for emergency repairs on power poles or lines, that their customers are paying for this service. When it comes to infrastructure, it is paid for by their shareholders and they are not going to do improvements to protect their shareholders. He does not support that the developer should have to pay these excessive costs. He compared the challenges already seen on Ingersoll Ave. He would like to see a meeting with Mid-American to work through some of these challenges as he believes we will see this issue going forward over and over again. He feels this is asking too much of developers.

Greg Jones would like to see the black poles but the costs provided are excessive. He would like to see more information and find a compromise. The figures provide are asking too much from the developer.

Mike Simonson stated he felt the developer had already done their part to work with the city and felt like they would be willing to find a compromise when reasonable.

Dave Courard-Hauri stated that \$200,000 is excessive and he does not feel comfortable making a motion to approve this, but would like more accurate data. Suggested the motion should include language to add those poles as long as it is at a reasonable price.

Greg Jones stated that we could send this on to Council in a format that says that we are ok with them not doing this at a given number, but if we get information for a reasonable number, we want them to do it.

#### **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**

Mike Simonson made a motion to not require the black poles but also implored staff to schedule a meeting with Mid-American energy to get the true facts on all the costs for the different types of lines and poles.

David Courard-Hauri asked if he could make a friendly amendment to the motion to include the black poles unless cost prohibitive. He also asked Ben Bruner if this was acceptable and if there as a dollar amount that was acceptable.

Ben Bruner stated it was a tough spot for him to say what would be reasonable or acceptable for his client.

Will Page stated this will get the discussion moving to determine between both parties what is reasonable.



Ben Bruner stated he wondered if this would apply to other sites, but stated this was a tough situation to try and get information only in a few days, but they were willing to be reasonable.

Mike Simonson accepted Commissioner Courard-Hauri's friendly amendment. He also clarified that in accepting the amendment it was basically saying it was a negotiation between the applicant and City Council as to what was a reasonable cost.

John "Jack" Hilmes stated either way it forces the city planning staff to gather information regarding pricing for black poles or underground power line pricing. It also forces the applicant to get information as well and promotes progress.

Mike Simonson stated his fear that this developer might be able to afford \$50-60k in poles, but the neighbor next door that wants to open a small business and in no way can afford this cost, so chooses not to open their business. This is why he would like to have the facts.

Jann Freed agreed that this forces the issue and additional information is needed.

#### **COMMISSION ACTION:**

Mike Simonson moved staff recommendation for approval of the requested amendment to the PUD Conceptual Plan to remove the requirement to underground the existing overhead electrical utility lines, subject to replacement of existing wooden utility poles in the Watrous Avenue Right-Of-Way with black-colored metal or fiberglass poles, unless cost prohibitive.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

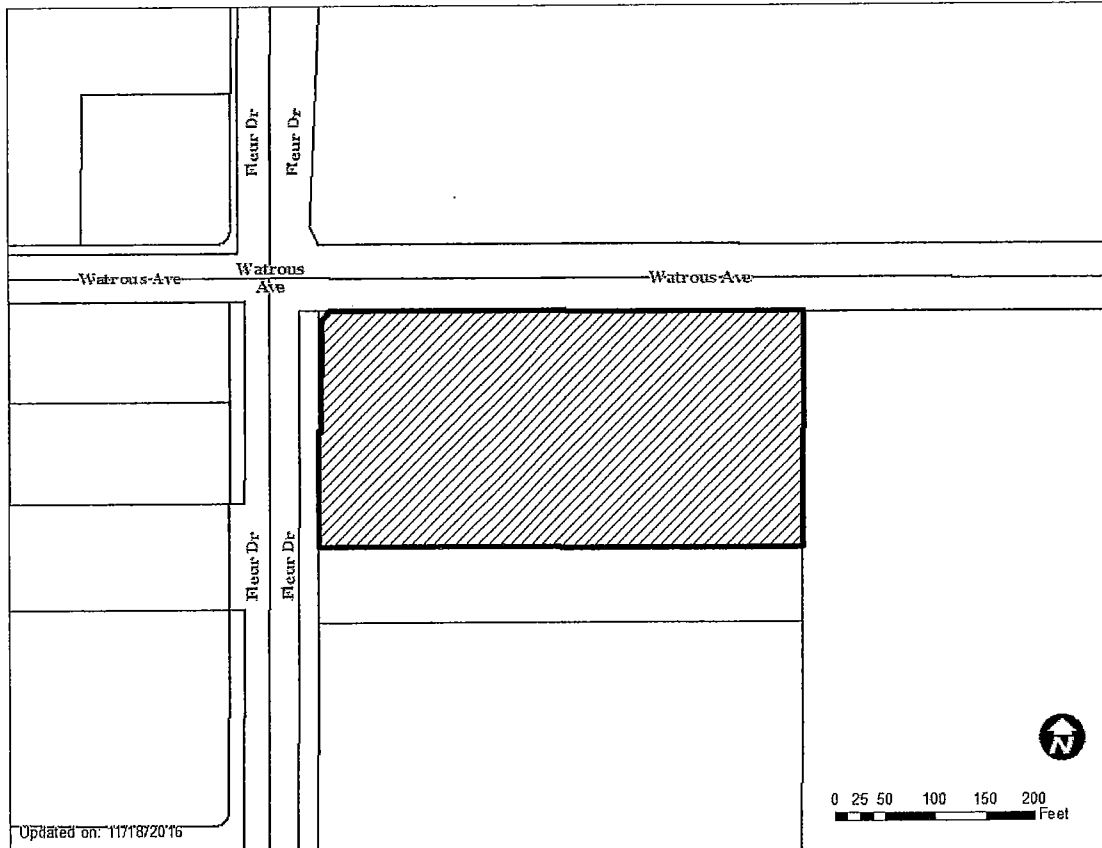
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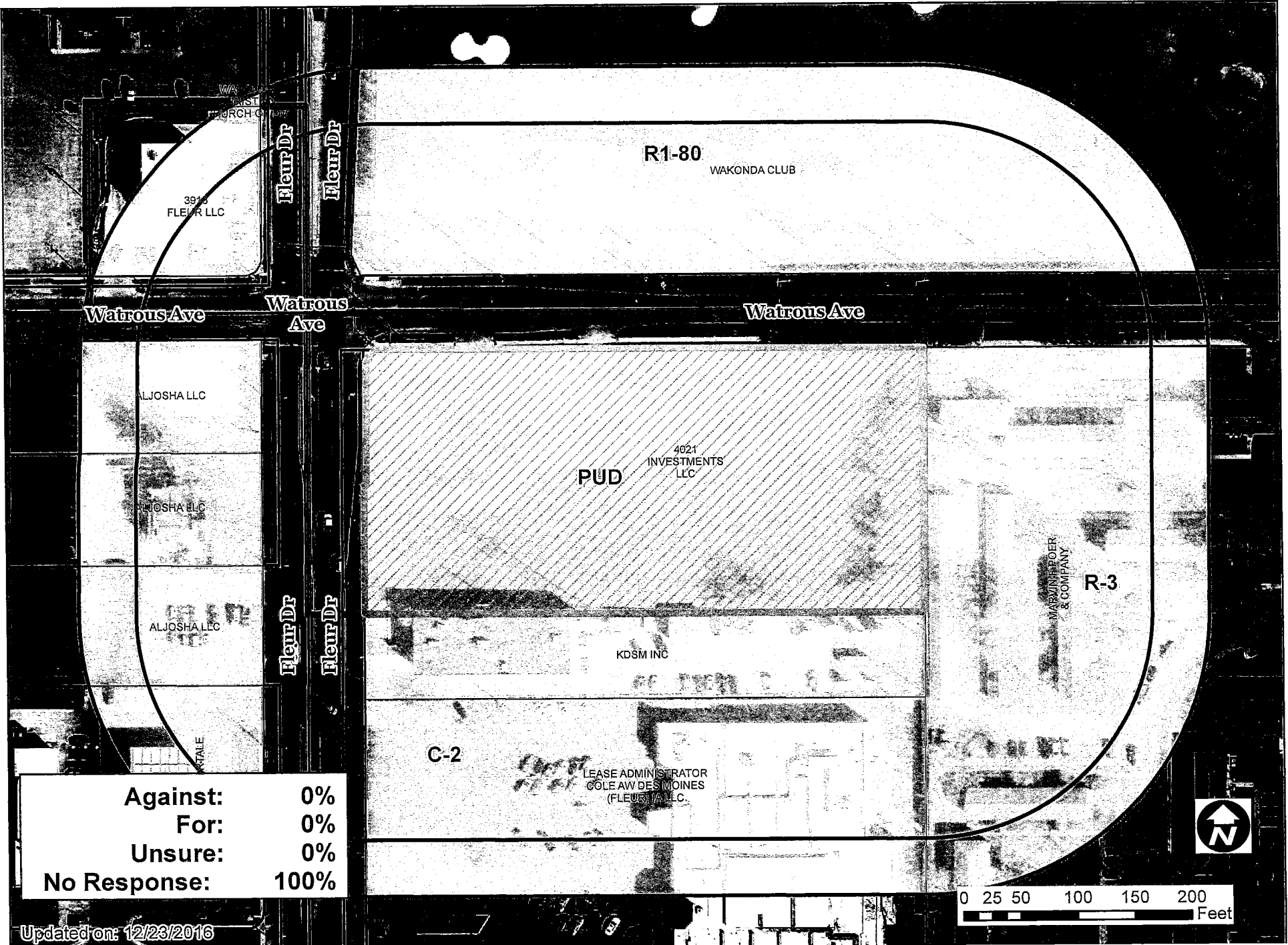
Quik Trip Corporation (developer) represented by Michael Talcott (officer) for property located at 4021 Fleur Drive. The subject property is owned by 4021 Investments, LLC.				File # ZON2016-00200	
Description of Action	Approval of request for approval of a 1st Amendment to the Quik Trip #0559R PUD Conceptual Plan, to allow removal of a requirement to relocate overhead utilities underground within the adjoining Rights-of-Way with black-colored metal or fiberglass poles, unless cost prohibitive.				
PlanDSM Future Land Use	Current: Community Mixed Use with a Community Node. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	Fleur Drive Rebuild				
Current Zoning District	"PUD" Planned Unit Development and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
Plan and Zoning Commission Action	Approval	14-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Quik Trip Corporation, 4021 Fleur Drive

ZON2016-00200



1 inch = 113 feet



Lh