



**Date** April 3, 2017

**RESOLUTION SETTING HEARING ON REQUEST FROM  
EXTREME AUTO PLAZA, INC. TO REZONE PROPERTY LOCATED AT  
1453 EAST 14TH STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on March 16, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Extreme Auto Plaza, Inc. (owner), represented by Paul Moyer (officer), to rezone the paved portion of the real property located at 1453 East 14th Street (“Property”) from Limited “C-2” General Retail and Highway-Oriented Commercial District and “R-2A” General Residential District to amended Limited “C-2” General Retail and Highway-Oriented Commercial District to allow future expansion of the existing vehicle display lot and sales of new vehicles and small trailers, subject to the following conditions:

1. Use of the Property shall be limited to uses permitted in the “C-1” Neighborhood Retail Commercial District, and sales of new small trailers and new or used vehicles;
2. Any expansion of display area upon the Property shall be in accordance with a Site Plan under vehicle display lot design guidelines reviewed by the Plan and Zoning Commission;
3. Any reuse or expansion of another commercial use of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center; and
4. Any Site Plan for the property shall be brought into conformance and comply with the City’s Landscaping Standards as applicable in the “C-2” General Retail and Highway Oriented Commercial District; and

**WHEREAS**, the Property to be rezoned is legally described as follows:

Beginning at the Northwest corner of Lot 228 in ASHBROOK, an Official Plat, recorded in Book I, Page 157, Polk County, Iowa; thence South 00°12'08" West along the west line of said Lot 228, a distance of 280.33 feet; thence South 89°59'16" West, a distance of 39.22 feet; thence South 00°02'05" West, a distance of 11.57 feet; thence South 89°44'03" West, a distance of 106.64 feet; thence South 00°00'58" West, a distance of 25.36 feet; thence South 89°44'03" West, a distance of 72.15 feet; thence North 00°13'17" West, a distance of 308.21 feet; thence North 44°54'14" East, a distance of 14.11 feet; thence South 89°58'16" East along the south right of way line of East Washington Avenue, a distance of 210.24 feet to the Point of Beginning. Containing 1.50 ACRES, more or less.

**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 at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin

Date April 3, 2017

Luther King, Jr. Parkway, Des Moines, Iowa, at 5:00 p.m. on April 17, 2017, at which time the City Council will hear both those who oppose and those who favor the proposal.

- 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:

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

(ZON2017-00011)

| 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

March 29, 2017

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 March 16, 2017, the following action was taken regarding a request from Extreme Auto Plaza, Inc. (owner) represented by Paul Moyer (officer) to rezone property located at 1453 East 14<sup>th</sup> Street. Additional subject property is owned by Gloria and Donald Moyer.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 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   |      |      |        |
| Lisa Howard         | X   |      |      |        |
| Carolyn Jenison     | X   |      |      |        |
| Greg Jones          | X   |      |      |        |
| William Page        | X   |      |      |        |
| Mike Simonson       |     |      |      | X      |
| Rocky Sposato       | X   |      |      |        |
| Steve Wallace       | X   |      |      |        |
| Greg Wattier        | X   |      |      |        |

**APPROVAL** of Part A) to find the requested rezoning to the "C-2" District not in conformance with the PlanDSM; Creating Our Tomorrow Plan, approval of Part B) to amend the existing PlanDSM: Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use. This is based on recent planning processes for the PlanDSM Creating Our Tomorrow Plan and the Martin Luther



King, Jr. Park Neighborhood Plan and approval of Part C) the existing paved portion of the existing R-2A district and the existing Limited C-2 district be rezoned to a New Limited C-2 district subject to the following conditions:

- 1. Uses shall be limited to C-1 uses, new trailer sales and newer or used auto sales.
- 2. Any expansion of display area use of the property shall be in accordance with a Site Plan under vehicle display lot design guidelines reviewed by the Plan and Zoning Commission.
- 3. Any reuse or expansion of another commercial use of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
- 4. Any Site Plan for the property shall be brought into conformance and comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District. (ZON2017-00011)

Written Responses

1 in Favor  
0 in Opposition

**STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning to the "C-2" District not in conformance with the PlanDSM; Creating Our Tomorrow Plan.

Part B) Staff recommends denial of the request to amend the existing PlanDSM: Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use. This is based on recent planning processes for the PlanDSM Creating Our Tomorrow Plan and the Martin Luther King, Jr. Park Neighborhood Plan.

Part C) Staff recommends denial of the requested to rezoning the property to "C-2" General Retail and Highway-Oriented Commercial District.

Should the Commission be inclined to support the rezoning, Staff recommends the following conditions of approval:

- 1. The following uses permitted in the "C-2" District shall be prohibited:
  - a) Adult entertainment businesses.
  - b) Taverns or nightclubs.
  - c) Liquor stores.
  - d) Off-premises advertising signs.
  - e) Pawn brokers.
  - f) Delayed deposit services.
- 2. Any expansion of display area use of the property shall be in accordance with a Site Plan under vehicle display lot design guidelines reviewed by the Plan and Zoning Commission.



3. Any reuse or expansion of another commercial use of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall be brought into conformance and comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to revise the used car sales display lot to include trailer sales display. Currently any display on the property is limited by zoning conditions to used car sales display. The applicant is also seeking to expand the display use into the eastern portion of the property which is zoned "R-2A" General Residential District.
2. **Size of Site:** 2.04 Acres (88,947 square feet).
3. **Existing Zoning (site):** Limited "C-2" General Retail and Highway-Oriented Commercial District, "R-2A" General Residential District, "VDL" Vehicle Display Lot Overlay District and "FSO" Freestanding Sign Overlay District. The southern portion of the site is zoned "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The subject property contains a 9,622-square foot building used for an auto showroom and auto service, a paved vehicle display lot, and a paved off-street parking lot that was previously extended into the adjoining residential zoning district to the east of the building. There is a landscaped area in the residentially-zoned portion of the property to the east of the building that has paved pads for vehicle display. These are not currently not used. Zoning Enforcement Staff have determined that there are no rights for any vehicle display within the residentially-zoned portion of the subject property.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60", Uses are single-family dwellings and the Des Moines Union Park Congregation of Jehovah's Witnesses Kingdom Hall.
  - South** - "C-2", Use is a car wash facility.
  - East** – "R-2A", Uses are single-family dwellings and vacant land.
  - West** – "C-1" and "R1-60", Uses are single-family dwellings and a used car sales display lot.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the East 14<sup>th</sup> Street / U.S. Highway 69 commercial corridor. The corridor adjoins single-family residential neighborhoods to the east and west.

- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Martin Luther King, Jr. Park Neighborhood and is within 250 feet of the Union Park Neighborhood to the north and the Capitol Park Neighborhood to the west. These neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda to all recognized neighborhoods on February 10, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on February 10, 2017 (20 days prior to hearing) and February 20, 2017 (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 person designated to the City of Des Moines' Neighborhood Development Division by the recognized neighborhood association. The Martin Luther King, Jr. Park Neighborhood Association mailings were sent to Curt Wagner, 1317 Hutton Street, Des Moines, IA 50316. The Union Park Neighborhood Association mailings were sent to Jack Daugherty, PO Box 16113, Des Moines, IA 50316. The Capitol Park Neighborhood Association mailings were sent to Chelsea Lepley, PO Box 1993, Des Moines, IA 50305. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on February 24, 2017.

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

- 8. Relevant Zoning History:** On July 10, 1989 by Ordinance No. 11,355, the City Council rezoned the southwestern portion of the subject property (included the carwash to the south and land west of the center of the vacated north/south alley, but not property fronting East Washington Avenue) to Limited "C-2" District subject to the following conditions:

- a. All "C-1" uses shall be permitted.
- b. The only "C-2" uses permitted on this property shall be an automobile car wash and a **used car sales lot**.
- c. There shall be a 6 foot high opaque screen on the eastern portion of this property.

On December 7, 1992 by Ordinance No. 11,911, the City Council rezoned property on the northern portion of the subject property (including lots fronting East Washington Avenue and the vacated north/south alley) to a Limited "C-2" District subject to the following conditions:

- a. There shall be no freestanding signage allowed on this property.
- b. The only street access shall be that where the alley is platted.
- c. The 25 foot setback along Washington Avenue shall be maintained with no encroachment of building or vehicle display area and landscaped with four 2" caliper overstory trees plus the landscaping similar to sketch plan submitted with the application and prepared by Iowa Outdoor products dated September 21, 1992.
- d. There shall be no allowance for extension of off-street parking 100 feet into the adjoining residential area next to this entire operation, including any land east of



Lots 229, 232-235, including the intervening vacated railroad right-of-way, in the plat of Ashbrook in the City of Des Moines.

- e. The only uses of structures or land permitted on the Property are those uses permitted in the "R-2A" General Residential District and as a **used car sales lot**.

**9. PlanDSM Future Land Use Plan Designation:** Low/Medium Density Residential.

**10. Applicable Regulations:** Taking into the consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. PlanDSM:** The proposed rezoning of the "R-2A" General Residential District to "C-2" General Retail and Highway-Oriented Commercial District and removing zoning conditions from the existing Limited "C-2" General Retail and Highway-Oriented Commercial District are not compatible with the "Low/Medium Density Residential" future land use designation. Therefore, the applicant has requested that the future land use designation be amended to "Community Mixed Use", which is defined as: "Small-to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers."

Staff does not believe that this mixed use designation is appropriate for this property since this designation should be focused in the areas where commercial corridors intersect and is for types of uses or in areas that provide greater separation from residential uses.

Furthermore, highway-oriented commercial uses, such as those proposed, typically create higher levels of noise and visual impacts on adjoining residential areas than residential development and, therefore, require greater separation from residential uses. Through the recent PlanDSM and Martin Luther King, Jr. Park Neighborhood Plan processes, the land was designated for low- to medium-density residential development to encourage redevelopment of housing along the corridor and to reduce the impacts commercial development has had to residential property into the neighborhood. This designation is defined as "Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre." Allowing the requested rezoning would perpetuate commercial use impacting the neighborhood rather than encourage residential redevelopment that is more compatible with the neighborhood.

Should the requested rezoning be denied by the City Council, the applicant would have the ability to request a Use Variance from the Zoning Board of Adjustment. A Use



Variance appeal can only be considered by the Board within one (1) year after a rezoning has been denied.

- 2. Permit and Development Center Comments:** Portions of the property have been in continuous use for used car vehicle display as a legal non-conforming vehicle display lot. It is non-conforming to Site Plan design guidelines adopted in 2002 by the City Council. Any expansion of the recognized legal non-conforming display areas on the property requested for rezoning from this point forward would require a Site Plan review by the Plan and Zoning Commission. This Site Plan for any expansion would require demonstration of compliance with design guidelines for vehicle display, screening, and dimensions as well as landscaping standards for "C-2" Districts.

## SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Rick Krause of 1641 NW 120<sup>th</sup>, Clive, IA, stated that he has owned commercial properties in the City of Des Moines area for over 18 years. Currently he owns the Ace Hardware Store at 4808 University Avenue as well as the Roosevelt Shopping Center on the west side of 42<sup>nd</sup> Street. The Interstate Group have a signed purchase agreement with the current owner of Extreme Auto Plaza, Paul Moyer, which is contingent on the City agreeing to rezone the property. He clarified that they have no intention of selling used cars at this location. They have a tentative lease agreement for ten years with the Interstate Group, which is also contingent on the rezoning of the property. Interstate Group is a national company based in Nampa, Idaho. They seek to open a retail store at this location. Mike Snow representing this company will present information regarding the company. According to the Polk County Assessor's Site, this property is zoned C-2 general retail, highway oriented commercial district. Based on the zoning, Interstate Group Business would normally comply. After further research it was determined that this property was actually zoned C-1 with the exception of used car sales. They are asking that the City rezone this property to C-2 with no exceptions. He stated that while they agree with the Plan DSM as a good road map for the City of Des Moines, it will not work in every location. He gave examples of his experience in Clive on 86<sup>th</sup> Street and how zoning stifled the development in this area. The DSM Plan for this location is for low and medium density housing as earlier mentioned by staff. There has been no new housing construction in this area for several decades. East 14<sup>th</sup> Street is too busy for housing and the traffic count for this street is 20,700 vehicles per day. Near this location there is a mix of abandoned and vacant lots, houses, distressed housing and commercial properties. The subject property is the nicest and most valuable lot in the area valued at \$530,000. Allowing the change of the zoning will keep or raise the current value of this property which will bring continued valuable tax revenue to the City. If it becomes vacant the value will plummet. He stated they hosted a neighborhood meeting in which five neighbors attended and no community leaders came. He believed that the neighboring properties were enthusiastic with their proposal. He has spoken to Linda Westergaard about their plan and she is in full support. In closing, he asked for the change of zoning and stated how this would be a good addition to the area that will employ 5-10 people as well as bring customers in from all over central Iowa to buy these exclusive small trailers.

Jann Freed asked if they are asking for the sales of both used cars and trailers.

Rick Krause stated they would only be selling new small utility trailers and no used cars.

Francis Boggus asked if used cars are currently being sold on this property.

Rick Krause stated yes.

Francis Boggus asked for clarification of what type of trailers are they proposing to sell.

Rick Krause stated all new small utility trailers.

JoAnne Corigliano asked if a car wash was near this site.

Rick Krause stated there was one to the south but not on this property and it would not be included.

Francis Boggus asked if there was another car dealership to the north.

Rick Krause stated there are several small car dealerships in the area.

Jacqueline Easley asked about the neighborhood meeting. Were there any oppositions or did the members ask questions? She mentioned they have received a response card in opposition.

Rick Krause stated this was the first that he had heard of any dissent regarding the request. The neighborhood was excited about this new business. He believes the neighbor that is in opposition to their proposal did not attend the meeting.

Will Page asked if he notified the neighborhood leaders and if so when were they notified.

Rick Krause stated Martin Luther King, Union Park and Capitol Park. None of the city leaders attended. The letter was sent out the end of February, the beginning of March. The meeting was held on March 13, 2017 at the location.

Dory Briles asked if this would be like their Trailers Plus locations around the country.

Rick Krause stated yes and Mr. Snow will speak on behalf of Interstate Trailers Plus.

JoAnne Corigliano asked if they intend to use the entire area.

Rick Krause stated it is not necessarily their intention to use the portion that is on the east part as display. It might be used for some overflow inventory. It will be professionally maintained.

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

Mike Snow 3800 Airport Road, Nampa Idaho stated Interstate Group Trailers Plus is a 22 years old company. They have three manufacturing plants, fifty stores and they operate in 22 states with 400 employees. They manufacture and sell small enclosed utility trailers. They are committed to this location pending the Commission's approval of the rezoning. The proposed store that represents 5 to 10 high paying jobs will also allow local services



support for their existing customers. Currently, those who choose to buy their trailers have to drive to Kansas City or Minneapolis which are the two closest stores. They want to part of the community and provide service. A couple of things that makes them different from the standard vehicle manufacturer are the following:

- Sixty percent of the units that would be sold here would be built in Iowa. With their partner manufacturing plant in Missouri Valley Iowa. The rest are built in Conway, Arkansas. They manufacture every single unit in the United States.
- Accessories and service. About 25% of their sales revenue comes from parts and service.
- They offer a free annual safety inspection, even if the trailer was not purchased there.

He showed pictures of a couple of their stores, showing their professional appearances. They believe that no matter which location the customers purchased their trailers they are part of the same family and they want to provide the same quality.

John "Jack" Hilmes asked will they be selling used trailers.

Mike Snow stated no. They do not sell used trailers.

John "Jack" Hilmes asked if the market plan is to come here for 10 years or longer.

Mike Snow stated the agreement would be 10 years with options.

Francis Boggus asked do they have preliminary plans of what the building would look like. Would it be similar to their other locations?

Mike Snow stated it would look similar. There are some internal modifications that would have to be made for ADA compliance, which would be the responsibility of the owner. They would most likely repaint it. There are some asphalt repair and the ground keeping maintenance they would do. In the image, they are trying to present the quality of the appearance of their product.

Will Page asked with the parcel that would be added to this site, how will it be accessed.

Mike Snow stated that is where they would like some feedback.

John "Jack" Hilmes asked if this was approved, would the site plan come back to the Commission for the use of this parcel.

Mike Snow stated they don't have an initial use other than the paved area. He showed the piece where they can access the building. There are no plans to modify the unpaved areas.

John "Jack" Hilmes asked where is the display area.



Mike Snow stated there are no plans to use any existing unpaved area.

John "Jack" Hilmes asked if the display area would be synonymous with paved area.

Jason Van Essen stated currently the area behind the building is allowed for employee parking and maneuvering. But to use that for display or for the storage would be an expansion. It would trigger a site plan process.

John "Jack" Hilmes stated condition #2 refers to a site plan that would have to come back to the Commission.

Mike Ludwig stated when people they come in with their site plan, they have to designate specifically on the plan where the display areas are and where the customer and employee parking will be located. They are also required stripe the paved area to define display and customer parking areas. The idea is to keep it out of the setbacks and to make sure there is orderly arrangement on the property and it doesn't expand over the lot.

John "Jack" Hilmes clarified that the display area the applicants are proposing will be big enough for their uses.

Mike Snow stated that is correct.

Rick Krause stated he wanted to clarify a couple of points. There will be no access off of Idaho Street, also it would not be economically viable for the site to be bought and converted to low to medium density housing. He pointed out that the traffic would come off of the E. 14<sup>th</sup> Street entrance or the entrance on E. Washington.

Greg Jones asked if they would be willing to accept a restriction stating there will be no used car sales.

Rick Krause stated yes.

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

Francis Boggus stated he is familiar with the location and believes this would be an improvement over the existing lot, and he does not believe it would be feasible to convert the portion of the property fronting E. 14<sup>th</sup> Street into housing with E. 14<sup>th</sup> Street being so busy. He believes this would be an asset. However, he believes they should adhere to the Plan DSM. He would support the change.

Jacqueline Easley asked if Commissioner Boggus was making a recommendation.

Francis Boggus moved staff recommendation.

Greg Wattier asked if there was something the Commission could do to limit the C-2 use in accordance with what the applicant is proposing.

Mike Ludwig stated currently it is C-2 zoning but limited to C-1 uses and a car lot. One option might be to rezone the entire property to a new Limited C-2 zoning limited to C-1 uses plus trailer sales as they described, if the applicant would agree. A second option might be no expansion beyond what is the existing paved area today and require screening along the portion of the property that fronts onto Idaho and no access. There would also be a site plan review whether the Commission go with one of these options are not.

Greg Wattier asked if staff's concern is the piece of the property that is dirt?

Jason Van Essen stated they have heard more information tonight about their plans. If the Commission is going to recommend approval in addition to limiting uses he would like if they limited the commercial activity to the area that is currently paved. As part of the Commission's motion they can designate the current area to remain as open green space. He would not want to see any pavement on the dirt area or storage of vehicles. He believes that would contradict the goals of the Neighborhood Plan.

Mike Ludwig stated a third option would be limit the rezoning to just the paved area. The R-2 area that is paved could be rezoned to Limited C-2 and leave the unpaved areas R-2A.

Greg Wattier asked the applicant would they be amenable to these suggestions.

Glenna Frank stated typically with rezoning conditions there is a condition in staff recommendation that refers to the applicant complying with all of the administrative review comments.

Jason Van Essen stated that would be a part of the site plan. The condition that required a site plan then it would trigger the administrative review comments.

Rick Krause asked if they are suggesting that it remain C-1 zoning with the conditions.

Mike Ludwig stated one of the last options that was suggested was the Commission rezone only the portion of the R-2A that is paved to a Limited C-2 zoning and rezone the current C-2 portion of the site to a new Limited C-2 zoning and the restriction on that paved area would be C-1 uses plus trailer sales as described.

Rick Krause stated that he believes they would agree to converting the parking area to the east of the building to C zoning and leave the grassy area to the R-2 zoning, but he didn't think they would agree to the condition to limiting it to C-1 uses and trailer sales. What happens after 10 years and the tenant moves out, he has a property that is not marketable. If the City doesn't allow this change, the current owner has a problem with marketing. All that can be done there is C-1 and C-1 with used car sales. He cannot make that financial commitment without knowing if he has more options, if the tenant were to move out.

Greg Wattier asked if the applicant would like for the Commission to deny their request or the applicant agrees to the conditions.



Rick Krause stated he would agree to some restrictions, but to just be C-1 plus trailer sales is probably not what they want.

Greg Jones stated there is currently C-1 zoning with restriction to used car sales. So, we are trading off cars for trailers.

Rick Krause stated he knows but don't want to be in position 10 years from now where he might not have a marketable property and he has to rely on Plan and Zoning or the City of Des Moines to agree with what he is doing with the site. If there are too many restrictions on the site it no longer becomes marketable.

Mike Ludwig asked if Commissioner Boggus motion was that only the portion of the R-2A District that is currently paved and the existing Limited C-2 area be rezoned to a New Limited C-2 District and that the new Limited C-2 district would allow C-1 uses plus trailer sales.

Francis Boggus stated yes.

Greg Wattier stated currently they can have used cars there and if we allow them to continue to have used cars and trailers they are willing to give up going into the residential area. Therefore, he is not going to support Commissioner Boggus' motion because he does not believe there needs to be a prohibition on car sales. He is fine with the used cars staying and adding the trailers to it. The big victory is not allowing it to encroach into the neighborhood. (i.e. the R-2A portion fronting Idaho Street).

Will Page stated he wanted to call attention to the work the staff has done to give support to the neighborhood associations. The neighborhood association to the east has worked hard for quite a while to try to upgrade their residential neighborhood. Union Park neighborhood is very concerned about E. 14<sup>th</sup> Street. He has heard in the past the E. 14<sup>th</sup> Street should be commercial from University to the Interstate. This is simply not a good idea, at least for the Union Park Neighborhood. He believes the same thing is true for the Capitol Park Neighborhood. He applauds and salute the City staff for coming up with a staff recommendation that calls all these points into clarity.

Mike Ludwig confirmed for the applicant that this vote is a recommendation to the Council only. Any recommendation made will be put in writing and provided to them prior to the Council hearing. Under State code any zoning conditions imposed by the City have to be agreed to in writing by the applicant. If not the Council has the option of either amending those at the table or continuing it so that new conditions can be written or denying the zoning at that time.

#### **COMMISSION ACTION:**

Francis Boggus moved to approve that only the portion of the R-2A District that is currently paved and the existing Limited C-2 area be rezoned to a New Limited C-2 District and that the New Limited C-2 district would allow C-1 uses plus trailer sales, subject to the following conditions:

1. Uses shall be limited to C-1 uses and new trailer sales.



2. Any expansion of display area use of the property shall be in accordance with a Site Plan under vehicle display lot design guidelines reviewed by the Plan and Zoning Commission.
3. Any reuse or expansion of another commercial use of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall be brought into conformance and comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Motion failed: 6-7 (Greg Wattier, Carolyn Jenison, Lisa Howard, Dory Briles, John "Jack" Hilmes, Will Page and Rocky Sposato voted in opposition).

Greg Wattier moved approval of Part A) to find the requested rezoning to the "C-2" District not in conformance with the PlanDSM; Creating Our Tomorrow Plan, approval of Part B) to amend the existing PlanDSM: Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use. This is based on recent planning processes for the PlanDSM Creating Our Tomorrow Plan and the Martin Luther King, Jr. Park Neighborhood Plan and approval of Part C) the existing paved portion of the existing R-2A district and the existing Limited C-2 district be rezoned to a New Limited C-2 district subject to the following conditions:

1. Uses shall be limited to C-1 uses, new trailer sales and newer or used auto sales.
2. Any expansion of display area use of the property shall be in accordance with a Site Plan under vehicle display lot design guidelines reviewed by the Plan and Zoning Commission.
3. Any reuse or expansion of another commercial use of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall be brought into conformance and comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Motion carried 13-0

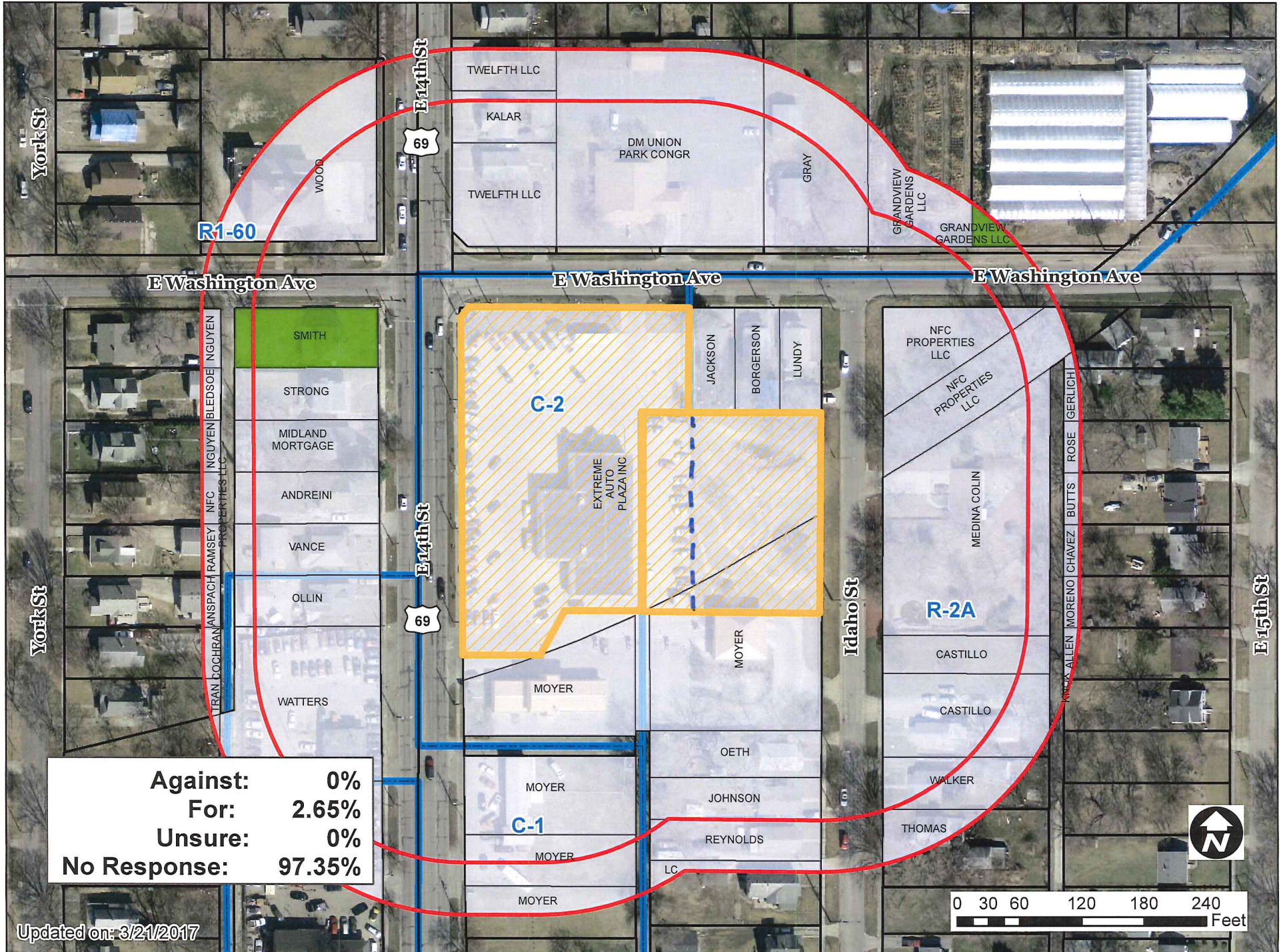
Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment





|                     |               |
|---------------------|---------------|
| <b>Against:</b>     | <b>0%</b>     |
| <b>For:</b>         | <b>2.65%</b>  |
| <b>Unsure:</b>      | <b>0%</b>     |
| <b>No Response:</b> | <b>97.35%</b> |

Updated on: 3/21/2017

