



Date April 3, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM ROLL-OFFS OF DES MOINES
TO REZONE PROPERTY LOCATED IN THE VICINITY OF
20 EAST 18TH STREET**

WHEREAS, on March 20, 2017, by Roll Call No. 17-0476, the City Council received communication from the City Plan and Zoning Commission advising that at a public hearing held on March 2, 2017, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Roll-Offs of Des Moines (owner), represented by Anthony Holt (officer), to rezone property located in the vicinity of 20 East 18th Street ("Property") from Limited "M-2" Heavy Industrial District to amended Limited "M-2" Heavy Industrial District to allow expansion of the permitted uses from outdoor storage of inoperable machinery to include outdoor storage and sorting of recycled waste materials within roll-off containers and dismantling of vehicles and machinery, subject to the following conditions:

1. Use of the Property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Any of the following uses so long as they are in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment:
 - i. Storage of inoperable machinery and/or equipment, such as forklifts, trucks, and automobiles.
 - ii. Dismantling of equipment, such as forklifts, trucks, and automobiles.
 - iii. Recycling (including sorting and transferring) of waste materials, such as metals, wood, shingles, cardboard, and paper.
2. Any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way; 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 Zoning Ordinance; and

WHEREAS, in accordance with said notice, those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 20 East 18th Street, legally described as:

LOTS 1 THROUGH 8 AND LOTS 15 THROUGH 22, BLOCK 1, I.N. THOMAS SUB DIVISION, AN OFFICIAL PLAT, AND THE VACATED EAST-WEST ALLEY LYING NORTH AND ADJOINING LOTS 17 THROUGH 22, BLOCK 1, I.N. THOMAS SUB DIVISION ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from Limited "M-2" Heavy Industrial District to amended Limited "M-2" Heavy Industrial District to allow expansion of the permitted uses from outdoor storage of inoperable machinery to include outdoor storage and sorting of recycled waste materials within roll-off containers and dismantling of vehicles and machinery, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property, which is binding upon the owner and its successors, heirs and assigns.

Date April 3, 2017

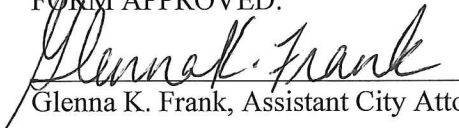
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to amended Limited "M-2" Heavy Industrial District with conditions as set forth above, are hereby overruled, and the hearing is closed.

2. The proposed rezoning of the Property to amended Limited "M-2" Heavy Industrial District with conditions as set forth above, is hereby found to be in conformance with the existing PlanDSM: Creating Our Tomorrow plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

FORM APPROVED:


 Glenna K. Frank, Assistant City Attorney

(ZON2017-00010)

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



Date April 3, 2017

Agenda Item 42

Roll Call # _____

March 9, 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 2, 2017, the following action was taken regarding a request from Roll-Offs of Des Moines (owner) represented by Anthony Holt (officer) to rezone property located in the vicinity of 20 East 18th Street. Additional subject property is owned by Anthony Holt and Charles Eilbert.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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) the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation and approval of Part B) to rezone property from Limited "M-2" Heavy Industrial District to Limited "M-2" Heavy Industrial District to allow expansion of the permitted uses from outdoor storage of inoperable machinery to include outdoor storage and sorting of recycled waste materials within roll-off containers and

dismantling of vehicles and machinery, subject to the following conditions:

(ZON2017-00010)

- 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Any of the following uses so long as they are in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment:
 - i. Storage of inoperable machinery and/or equipment, such as forklifts, trucks, and automobiles.
 - ii. Dismantling of equipment, such as forklifts, trucks, and automobiles.
 - iii. Recycling, including sorting and transferring, of waste materials, such as metals, wood, shingles, cardboard, and paper.
- 2) Any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

Written Responses

2 in Favor

0 in Opposition

STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Industrial.

Part B) Staff recommends approval of the rezoning from Limited "M-2" Heavy Industrial District to Limited "M-2" Heavy Industrial District, subject to the following conditions:

- 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Any of the following uses so long as they are in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment:
 - i. Storage of inoperable machinery and/or equipment, such as forklifts, trucks, and automobiles.
 - ii. Dismantling of equipment, such as forklifts, trucks, and automobiles.
 - iii. ~~Recycling of waste materials, such as metals, wood, shingles, cardboard, and paper.~~ Recycling, including sorting and transferring, of waste materials, such as metals, wood, shingles, cardboard, and paper.
- 2) Any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would revise the zoning conditions that were applied to the property on April 22, 2013, by Ordinance Number 15,183. This ordinance limits use of the property to: 1) uses allowed in the "M-1" District, and 2) storage of inoperable machinery.

The proposed rezoning to modify the zoning conditions would allow for the dismantling of

equipment and for the recycling of waste materials collected off-site in the roll-off dumpster containers. The applicant indicates that they would relocate these additional activities to this site from their current location at 2135 Scott Avenue, which is readily visible from East Martin Luther King, Jr. Parkway.

The application indicates that any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials would be completely screened from view and would be setback at least 100 feet from any public right-of-way.

If the rezoning is granted, the applicant would then have to seek an amendment to their Conditional Use Permit as granted by the Zoning Board of Adjustment and possibly amend the Site Plan that is on file with the City's Permit and Development Center.

2. **Size of Site:** 4.04 acres.
3. **Existing Zoning (site):** Limited "M-2" Light Industrial District.
4. **Existing Land Use (site):** Vehicle display lot for forklifts and similar equipment for sale, storage of inoperable equipment, contractor's storage yard, automotive repair, and a single-family dwelling.
5. **Adjacent Land Use and Zoning:**
 - North* – "M-1"; Uses include East Court Avenue and a warehouse use.
 - South* - "M-1"; Uses include a railroad and a grain elevator.
 - East* - "M-1"; Uses include Southeast 18th Street and a warehouse use.
 - West* - "M-1"; Use is a single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located in an industrial area along East 18th Street in the vicinity of multiple east/west railroad lines.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Capitol East Neighborhood. The neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 10, 2017. A Final Agenda was mailed to the neighborhood associations on February 24, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on February 10, 2017 (20 days prior) and February 20, 2017 (10 days prior to the scheduled hearing) to the Capitol East Neighborhood Association 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 Capitol East Neighborhood Association mailings were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

The applicant has held a neighborhood meeting and will be able to provide a summary of the meeting at the hearing.

8. **Relevant Zoning History:** On April 22, 2013, the City Council approved Ordinance Number 15,183, which rezoned the property to "M-2" Heavy Industrial District, subject to the following conditions:

- 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- 2) Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

On May 22, 2013, the Zoning Board of Adjustment granted a Conditional Use Permit for a use in the "M-2" Heavy Industrial District that is not otherwise permitted in the "M-1" Light Industrial District. This allowed use of a paved area for outdoor storage of inoperable machinery, such as lifts and construction equipment, constituting a salvage yard. The approval was subject to the following conditions:

1. Any storage of inoperable machinery shall be in accordance with any necessary amendment to a Site Plan on file with the City's Permit and Development Center.
2. Any area used for outdoor storage of inoperable machinery shall be setback at least 100 feet from any public right-of-way and shall be screened by a solid fence with no more than three (3) driveway openings, each measuring up to 40 feet.
3. There shall be no dismantling of vehicles or equipment. Any future proposal for dismantling of vehicles shall require an amendment to the Conditional Use Permit by the Zoning Board of Adjustment.
4. The Conditional Use Permit shall be subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the conditional use permit.

On October 2, 2013, the Permit and Development Center approved a Site Plan (10-2014-7.29) that identified where outdoor storage of inoperable machinery could occur and identified the necessary screening materials.

Since then, the business has been violating the Conditional Use Permit, as they have been placing inoperable vehicles on property owned by the City adjacent to the south. As noted in Condition #4, the Conditional Use Permit shall be subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the conditional use permit. Therefore, on December 16, 2016, the Zoning Enforcement Officer notified the business owner (Anthony Holt) that the Conditional Use Permit would be reconsidered by the Zoning Board of Adjustment. Since then, the applicant has removed all inoperable equipment that had been placed outside of their property.

On February 1, 2017, Roll Offs of Des Moines, LLC, applied for a rezoning of the property that could potentially resolve current zoning violations. Therefore, the Zoning Board of Adjustment has deferred the reconsideration of the Conditional Use Permit to a future meeting so that this rezoning request can be processed by the Plan & Zoning Commission and the City Council.

9. **2020 Community Character Land Use Plan Designation:** This area is designated as "Industrial". Staff believes that the proposed rezoning would be in conformance with this designation so long as any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials is completely screened from view and is setback at least 100 feet from any public right-of-way.

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. Site Plan Requirement:** The site is currently improved in accordance with an approved Site Plan for "Holt Warehouse and Storage Lot" under design guidelines for vehicle display lots since the property currently contains a display lot for forklifts. The approved Site Plan may need be amended to identify areas where any dismantling or recycling would occur and any additional areas where outside storage of inoperable equipment would occur.

- 2. Conditional Use Permit Requirements:** If the rezoning is granted, the applicant would then have to seek an amendment to their Conditional Use Permit as granted by the Zoning Board of Adjustment. In accordance with City Code Section 134-1122(5), during consideration of any future amendment to the Conditional Use Permit, the Zoning 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.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Dory Briles moved staff recommendation for approval of Part A) to find the proposed rezoning in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Industrial and approval of Part B) the rezoning from Limited "M-2" Heavy Industrial District to Limited "M-2" Heavy Industrial District, subject to the following conditions:

- 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Any of the following uses so long as they are in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment:
 - i. Storage of inoperable machinery and/or equipment, such as forklifts, trucks, and automobiles.
 - ii. Dismantling of equipment, such as forklifts, trucks, and automobiles.
 - iii. Recycling, including sorting and transferring, of waste materials, such as metals, wood, shingles, cardboard, and paper.
- 2) Any area used for outdoor storage of inoperable machinery, dismantling of equipment, or recycling of waste materials shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way, subject to the following conditions:

Motion carried 12-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Roll-Offs of Des Moines (owner) represented by Anthony Holt (officer) for property located in the vicinity of 20 East 18th Street. Additional subject property is owned by Anthony Holt and Charles Eilbert.				File #	
				ZON2017-00010	
Description of Action		Approval of request to rezone property from Limited "M-2" Heavy Industrial District to Limited "M-2" Heavy Industrial District to allow expansion of the permitted uses from outdoor storage of inoperable machinery to include outdoor storage and sorting of recycled waste materials within roll-off containers and dismantling of vehicles and machinery, subject to conditions.			
PlanDSM Future Land Use		Current: Industrial. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan		No planned improvements.			
Current Zoning District		Limited "M-2" Heavy Industrial District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District		Limited "M-2" Heavy Industrial District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Subject Property		2			
Outside Area (200 feet)					
Plan and Zoning Commission Action		Approval	12-0	Required 6/7 Vote of the City Council	
		Denial		Yes	No
					X

Roll-Offs of Des Moines, 20 East 18th Street

ZON2017-00010



1 inch = 125 feet

ZON2017-00010

Item _____

Date 2/27/17

I (am) ~~(a)~~ **RECEIVED** in favor of the request.

WITHIN SUBJECT PROPERTY

COMMUNITY DEVELOPMENT

MAR 03 2017

Print Name Ruben Acosta

Signature [Handwritten Signature]

Address 1700 E Court Ave Des Moines IA

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

I find here Problem
what the company working
any time
very good men's

2/20/2017

Capitol East Neighborhood Association regular monthly meeting. On our agenda we had Mr. Anthony Holt and he told the group about zoning changes at his business and would like to have changed to heavy industrial district. After answering question from the neighborhood association we took it up for a vote and it passed with no dissention. Roll Offs of Des Moines is a great support and a great neighbor of Capitol East.

Respectfully,

Jack Leachman

President of Capitol East Neighborhood Association

ZON2017-00010

Item _____

Date 2/22/17

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

CAPITOL EAST NEIGHBORHOOD ASSOC.

RECEIVED

COMMUNITY DEVELOPMENT

JACK LEACHMAN

FEB 27 2017

Signature

Jack Leachman

Address

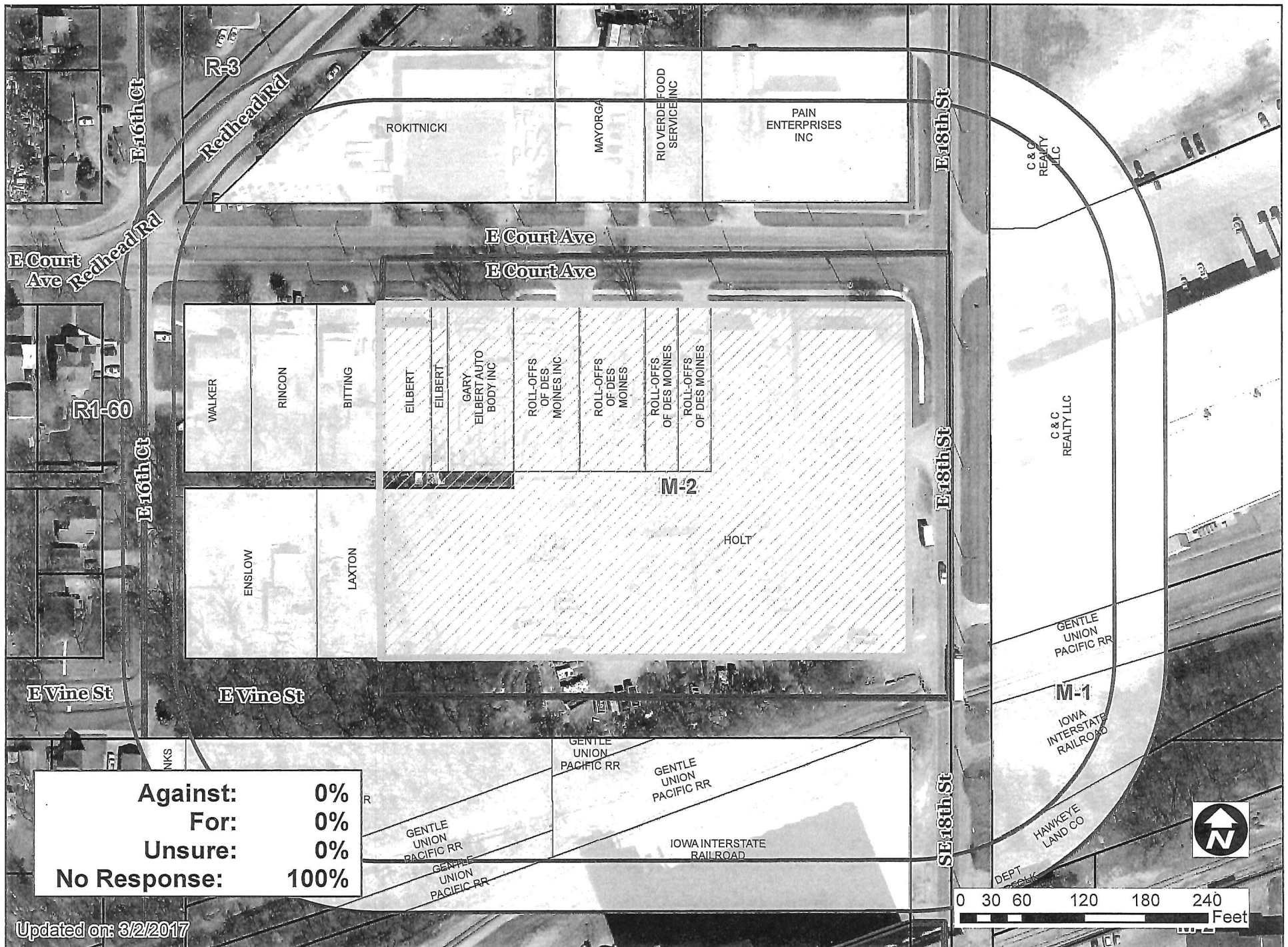
Capitol East Neighborhood Association

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

GREAT SUPPORTER OF OUR
NEIGHBORHOOD ASSOCIATION AND
GOOD BUSINESS TO HAVE IN
OUR AREA

Roll-Offs of Des Moines, 20 East 18th Street

ZON2017-00010



Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 3/2/2017

