



Date May 8, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
NB GOLF, LLC TO REZONE PROPERTY LOCATED AT 4905 HUBBELL AVENUE**

**WHEREAS**, on April 17, 2017, by Roll Call No. 17-0674, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on April 6, 2017, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from NB Golf, LLC (lessee), represented by Dan Thomsen (officer), to rezone property owned by 5035, LLC, and located at 4905 Hubbell Avenue ("Property") from Limited "M-1" Light Industrial District to amended Limited "M-1" Light Industrial District to remove the zoning condition that prohibits a "vehicle display lot" use and allow use of the premises for the sale of golf carts, subject to the following conditions:

1. The following uses of structures and land shall be prohibited upon the Property:
  - a. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.
  - b. Farms, except growing crops on any land that has not been improved.
  - c. Asphalt or concrete mixing or production facilities.
  - d. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances.
  - e. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated.
  - f. Cemeteries.
  - g. Adult entertainment businesses.
  - h. Arcades or game rooms as a substantial portion of a business.
  - i. Taverns and nightclubs.
  - j. Animal rendering or slaughter facility.
  - k. Off-premises advertising signage.
  - l. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility.
  - m. Jail, prison, or any other correctional facility of any kind.
  - n. Any public or private nuisance or illegal activity.
  - o. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks.
  - p. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
  - q. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
  - r. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
  - s. Package goods store for the sale of alcoholic beverages.

.....  
**Date** May 8, 2017

- t. Vehicle display lots, including but not limited to used car sales lots; however, allowing for the outdoor display of golf carts only in accordance with approval of a Site Plan by the Plan and Zoning Commission under design guidelines for vehicle display lots.
  - u. Pawn brokerages.
  - v. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.
2. The following standards shall apply to any building hereafter constructed on the Property for miniwarehouse use:
- a. All storage unit building walls facing external to the Property shall consist of a stone, masonry, or brick exterior material, or other durable material as approved by the Community Development Director.
  - b. No storage access doors shall be oriented toward a public street, any adjoining residential zoning or development, or toward the west property line.
3. Any fencing along the north, west, and south perimeter of the Property shall consist of wrought iron style fencing unless providing a privacy fence is necessary to provide screening for an adjoining property.
4. Outside storage on the Property shall be prohibited unless it occurs within an area fully screened by a fencing or landscaping that is at least as tall as the items being stored.
5. Downward directed, shielded lighting shall be provided on the Property to avoid shining obtrusively onto adjoining properties.
6. All facades on the exterior wall of any building on the Property facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director as being comparable in overall quality.
7. All overhead doors and loading docks on any principal or accessory building on the Property shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
8. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District, 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



Date May 8, 2017

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 4905 Hubbell Avenue, legally described as:

LOTS 44 AND 45, GLEN ACRES, AN OFFICIAL PLAT, AND THE WEST 330 FEET OF THE NORTH 660 FEET OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT STREETS.

from Limited "M-1" Light Industrial District to amended Limited "M-1" Light Industrial District to remove the zoning condition that prohibits a "vehicle display lot" use and allow use of the Property for the sale of golf carts, 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.

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-1" Light 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-1" Light 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

(ZON2017-00033)

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

MOTION CARRIED APPROVED

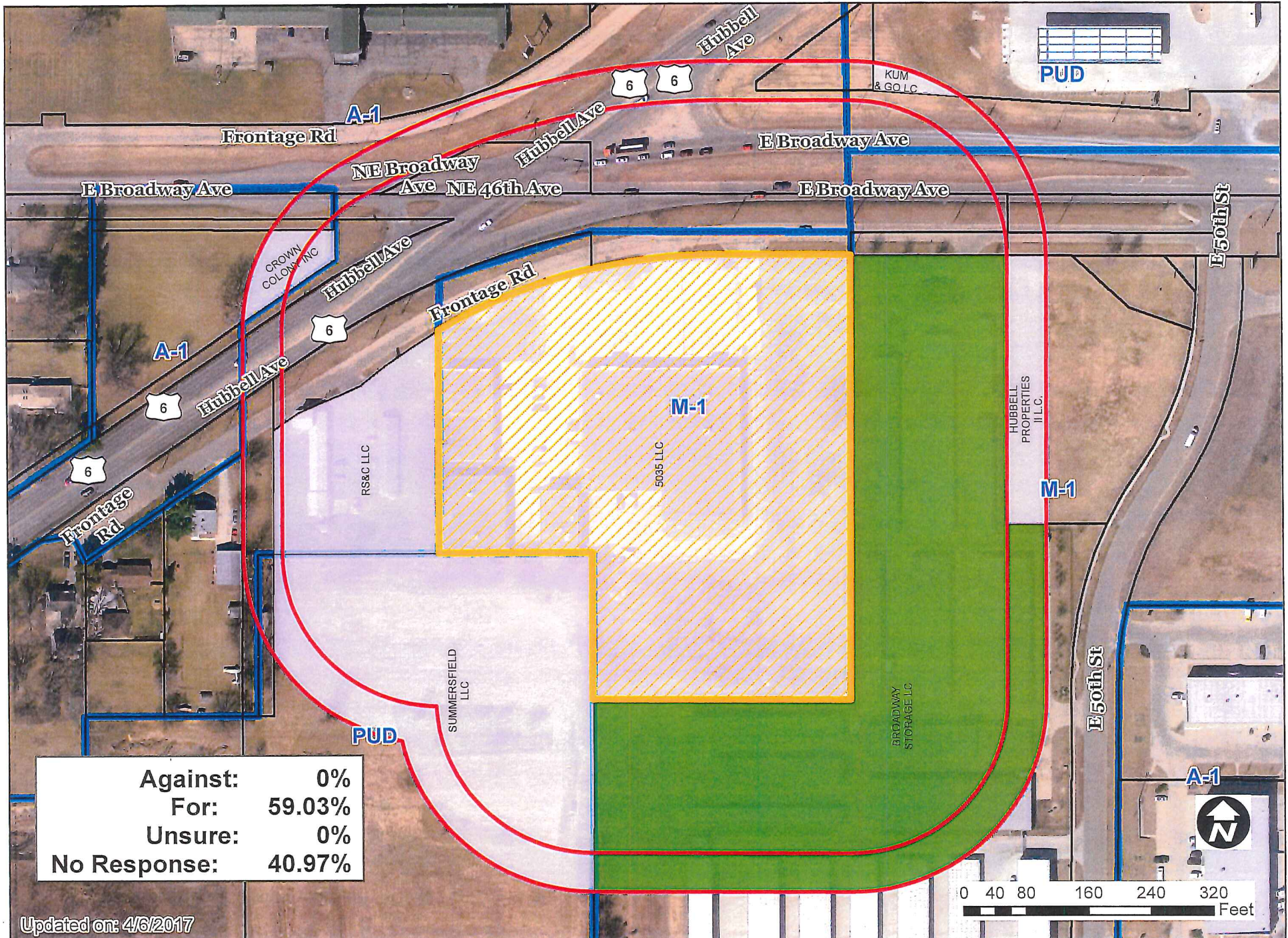
Mayor

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



Against:	0%
For:	59.03%
Unsure:	0%
No Response:	40.97%

79



April 10, 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 April 6, 2017, the following action was taken regarding a request from NB Golf, LLC (lessee), represented by Dan Thomsen (officer), to rezone property located at 4905 Hubbell Avenue. The property is owned by 5035, LLC, represented by Jared Johnson (officer).

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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 revise the conditions for a Limited "M-1" District in conformance with the PlanDSM; Creating Our Tomorrow Plan, approval of Part B) the requested rezoning subject to the following conditions: (ZON2017-00033)



A. The following uses of structures and land shall be prohibited upon the Property:

1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.
2. Farms, except growing crops on any land that has not been improved.
3. Asphalt or concrete mixing or production facilities.
4. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances.
5. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated.
6. Cemeteries.
7. Adult entertainment businesses.
8. Arcades or game rooms as a substantial portion of a business.
9. Taverns and nightclubs.
10. Animal rendering or slaughter facility.
11. Off-premises advertising signage.
12. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility.
13. Jail, prison, or any other correctional facility of any kind.
14. Any public or private nuisance or illegal activity.
15. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks.
16. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
17. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
18. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
19. Package goods store for the sale of alcoholic beverages.
- 20. Vehicle display lots, including but not limited to used car sales lots; however, allowing for the outdoor display of golf cars only in accordance with approval of a Site Plan by the Plan and Zoning Commission under design guidelines for vehicle display lots.**
21. Pawn brokerages.
22. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.

- B. The following standards shall apply to any building hereafter constructed for miniwarehouse use:
1. All storage unit building walls facing external to the site shall consist of a stone, masonry, or brick exterior material, or other durable material as approved by the Community Development Director.
  2. No storage access doors shall be oriented toward a public street, any adjoining residential zoning or development, or toward the west property line.
- C. Any fencing along the north, west, and south perimeter of the site shall consist of wrought iron style fencing unless providing a privacy fence is necessary to provide screening for an adjoining property.
- D. Outside storage on the premises shall be prohibited unless it occurs within an area fully screened by a fencing or landscaping that is at least as tall as the items being stored.
- E. Provision of downward directed, shielded lighting to avoid shining obtrusively onto adjoining properties.
- F. All facades on the exterior wall of any building facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director as being comparable in overall quality.
- G. All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- H. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

Written Responses

1 in Favor

0 in Opposition

**STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning to revise the conditions for a Limited "M-1" District in conformance with the PlanDSM; Creating Our Tomorrow Plan.

Part B) Staff recommends approval of the requested rezoning to a new Limited "M-1" District subject to the following conditions:

A. The following uses of structures and land shall be prohibited upon the Property:

1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.
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15. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks.
16. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
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E. Provision of downward directed, shielded lighting to avoid shining obtrusively onto adjoining properties.

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H. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

- 1. **Purpose of Request:** The applicant is proposing to display golf cars outside of the building along East Broadway Avenue. The applicant currently operates a golf car sales business with indoor display permitted only based on the zoning conditions which prohibit vehicle display lots.
- 2. **Size of Site:** 5.9 Acres (256,297 square feet).
- 3. **Existing Zoning (site):** Limited "M-1" Light Industrial District and "FSO" Freestanding Sign Overlay District.

4. **Existing Land Use (site):** The subject property contains four single-story commercial/industrial buildings with multiple tenants totaling 55,360 square feet used for warehousing, office and retail uses. The applicant is located within the easternmost building. The site was formerly the Homemakers Plaza furniture outlet store.

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

**North** – “A-1”, Uses are Broadway Motel and a hall for the International Union of Operating Engineers.

**South** - “PUD” (Summersfield) & “M-1”, Uses are vacant land approved for single-family residential development and Broadway Storage mini-warehouse complex.

**East** – “M-1”, Use is Broadway Storage mini-warehouse complex.

**West** – “A-1” & “PUD” (Summersfield), Uses are vacant land approved for single-family residential development and Motel 8.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the intersection of the Hubbell Avenue/ U.S. Highway 6 and East Broadway Avenue commercial corridors. The corridor adjoins residential neighborhoods to the south and west.

7. **Applicable Recognized Neighborhood(s):** The subject property is not located in a recognized neighborhood. All recognized neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on March 17, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on March 17, 2017 (20 days prior to hearing) and March 27, 2017 (10 days prior to 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. Additionally, a Final Agenda for the hearing was mailed to all recognized neighborhoods on March 31, 2017.

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 applicant has indicated that their neighborhood meeting was held on March 14, 2017 on the subject property. The applicant will be able to provide a summary of the meeting at the hearing.

8. **Relevant Zoning History:** On November 11, 2013 by Ordinance No. 15,238, the City Council rezoned the subject property from “A-1” Agricultural District to Limited “M-1” Light Industrial District subject to the following conditions:

A. The following uses of structures and land shall be prohibited upon the Property:

1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.
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B. The following standards shall apply to any building hereafter constructed for miniwarehouse use:

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2. No storage access doors shall be oriented toward a public street, any adjoining residential zoning or development, or toward the west property line.

C. Any fencing along the north, west, and south perimeter of the site shall consist of wrought iron style fencing unless providing a privacy fence is necessary to provide screening for an adjoining property.

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- H. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

**9. PlanDSM Future Land Use Plan Designation:** Business Park.

**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. **Access/Parking:** The applicant is proposing to display golf cars along the East Broadway Avenue frontage between the two existing, north driveways which access the frontage road. This would displace some off-street parking spaces, but should not reduce the total below minimum requirements for the uses on the property. The required Site Plan for vehicle display would update the marking of display areas and off-street parking spaces.
2. **Permit and Development Center Comments:** The Zoning Enforcement Staff for the City opened a code violation case on January 4, 2017. The property owner was contacted and ordered to cease storage and display of golf cars in front of the property in accordance with the approved zoning conditions. The owner and the applicant then scheduled and attended a pre-application meeting on February 7, 2017 where the process for changing the zoning and the procedures for vehicle display lot Site Plan review were explained.

Should the property be rezoned to allow the display of golf cars for sale, the applicant would be required to submit a Site Plan for review and approval by the Plan and Zoning Commission under design guidelines for vehicle display lots along with issuance of a Certificate of Zoning Compliance after inspection of the necessary site improvements.

3. **Staff Rationale:** Staff believes that adding the outdoor display of golf cars only will not negatively affect and will not significantly alter the existing land use pattern of the surrounding commercial neighborhood area, so long as any display occurs in accordance with approval and compliance with Site Plan design guidelines for vehicle display lots.

## SUMMARY OF DISCUSSION

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

## COMMISSION ACTION:

Will Page moved staff recommendation for approval of Part A) the Commission find the requested rezoning to revise the conditions for a Limited "M-1" District in conformance with the PlanDSM; Creating Our Tomorrow Plan.

Part B) Staff recommends approval of the requested rezoning to a new Limited "M-1" District subject to the following conditions:

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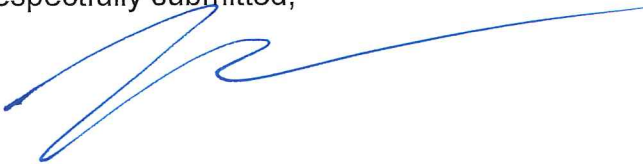
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- H. Any development of the Property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

Motion carried 11-0.

Respectfully submitted,



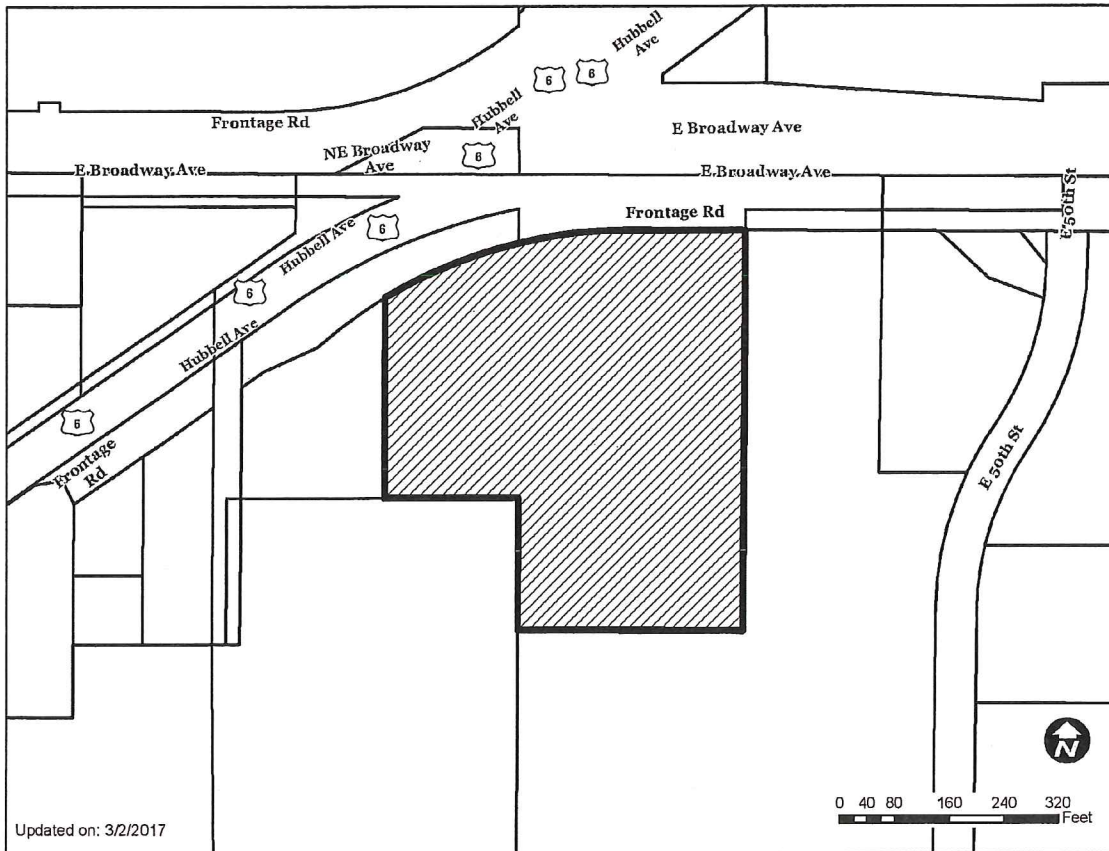
Jason Van Essen, AICP  
Senior Planner

JMV:clw  
Attachment

NB Golf, LLC (lessee), represented by Dan Thomsen (officer) for property located at 4905 Hubbell Avenue. The property is owned by 5035, LLC.			File # ZON2017-00033	
Description of Action	Approval of rezoning of property from Limited "M-1" Light Industrial District to Limited "M-1" Light Industrial District to remove the zoning condition that prohibits a "vehicle display lot" use. This would allow use of the premises for the sale of golf carts, subject to conditions.			
PlanDSM Future Land Use	Current: Business Park. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	Limited "M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	Limited "M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	1			
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

NB Golf, LLC, 4905 Hubbell Avenue

ZON2017-00033



1 inch = 164 feet



ZON2017-00033

Item 2017-00033

Date 3/3/17

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

**RECEIVED**  
(Circle One)

COMMUNITY DEVELOPMENT Print Name Bruce Vandrey Linden

Signature [Signature]

APR 06 2017

Address 4933 East Broadway Hce

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

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