



Date September 25, 2017

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
BRIAN JOHNSON TO REZONE PROPERTY LOCATED AT 1916 DEAN AVENUE**

**WHEREAS**, on July 24, 2017, by Roll Call No. 17-1240, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on July 6, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Brian Johnson (owner) to rezone property located at 1916 Dean Avenue ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the split-zoned Property to be used legally for the owner's existing roofing contractor business, subject to the following conditions:

1. The following shall be prohibited as permitted uses on the Property:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
2. Any outdoor storage on the Property shall comply with the following requirements:
  - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining residential (R) district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in the Des Moines Municipal Code.
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
  - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
3. The outside storage or expansion of the existing business on the Property shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the Property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District; and

**WHEREAS**, on July 24, 2017, by Roll Call No. 17-1240, it was duly resolved by the City Council that the application of Brian Johnson to rezone the Property, legally described as follows, be set down for hearing on August 14, 2017 at 5:00 p.m. in the Council Chambers at the Municipal Service Center:



Date September 25, 2017

(Except the South 206 feet) The West 148.25 feet of Lot 21 of the OFFICIAL PLAT OF THE NORTHEAST 1/4 OF SECTION 2 - TOWNSHIP 78 - RANGE 24, all now included in and forming a part of the City of Des Moines, Polk County, Iowa; 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**, on August 14, 2017, by Roll Call No. 17-1425, said hearing was opened and continued to the August 28, 2017 Council meeting in order to obtain the Acceptance of Rezoning Ordinance from the applicant and/or to resolve any concerns related thereto; and

**WHEREAS**, following said continuance, it was determined by the applicant and Community Development Department staff that the proposed rezoning contained a condition limiting the use of the Property in a manner that was not consistent with the applicant's planned use of the Property as a vehicle display lot; and

**WHEREAS**, on August 28, 2017, by Roll Call No. 17-1500, said hearing was opened and continued to the September 25, 2017 Council meeting, in order to resubmit the request for rezoning to the Plan and Zoning Commission on September 7, 2017 and to republish notice of the hearing to correctly identify the proposed use of the Property; and

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on September 7, 2017, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Brian Johnson (owner) to rezone the Property from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow the split-zoned Property to be used legally for the owner's existing roofing contractor business and/or to allow the Property to be used in whole or in part as a vehicle display lot, subject to all conditions set forth above with a revision to Condition #1(b) as follows:

1. The following shall be prohibited as permitted uses on the Property:

....

b) outdoor display of vehicles for sale,

**WHEREAS**, City staff have prepared an Ordinance rezoning the Property locally known as 1916 Dean Avenue to Limited "M-1" Light Industrial District to allow the Property to be used legally for the owner's existing roofing contractor business and/or to allow the Property to be used in whole or in part as a vehicle display lot, subject to the conditions stated above and Condition #1(b) as revised 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 his successors, heirs and assigns; and

**WHEREAS**, in accordance with the published 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.

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



**Roll Call Number**

**Agenda Item Number**

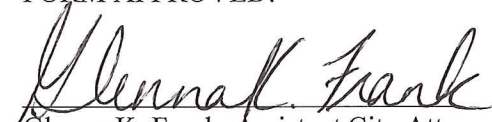
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**Date** September 25, 2017

1. The communication of the City's Plan and Zoning Commission regarding its September 7, 2017 public hearing is hereby received and filed.
2. 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 Limited "M-1" Light Industrial District with conditions as set forth above including Condition #1(b) as revised, are hereby overruled, and the hearing is closed.
3. The proposed rezoning of the Property to Limited "M-1" Light Industrial District with conditions as set forth above including Condition #1(b) as revised, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use 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

(ZON2017-00102)

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

MOTION CARRIED

APPROVED

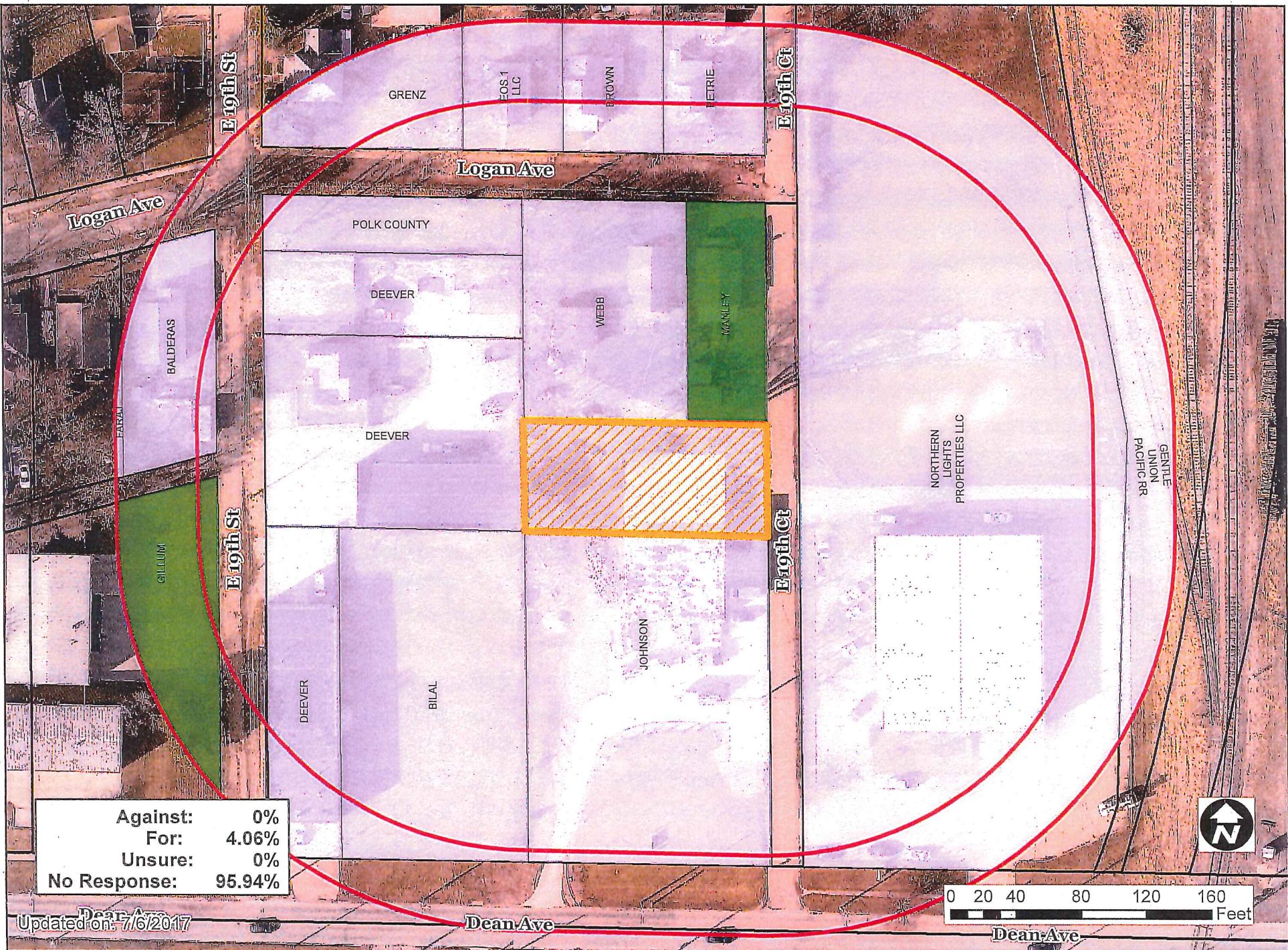
\_\_\_\_\_  
Mayor

#### 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



10-1500  
19-1425  
6/16/23

July 10, 2017

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from Brian Johnson (owner) to rezone property located at 1916 Dean Avenue from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning.

**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) the requested rezoning to "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan and approval of Part B) the requested rezoning subject to the following conditions: (ZON2017-00102)

1. The following shall be prohibited as permitted uses:

a) adult entertainment businesses,

- 17-1425  
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- b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.

2. Any outdoor storage on the property shall comply with the following requirements.

- a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
  - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District. (ZON2017-00102)

#### Written Responses

3 in Favor

0 in Opposition

#### **STAFF RECOMMENDATION**

Part A) Staff recommends that the Commission find the requested rezoning to "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan.

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Part B) Staff recommends approval of the requested rezoning subject to the following conditions.

1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
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3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the property under a Site Plan shall 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 rezoning would allow the property to be used legally for the owner's roofing contractor business. The applicant is seeking to remove the existing single-family dwelling on the property and continue to the use a garage and shop warehouse building in association with the business. An accessory garage cannot be allowed to stand alone on a residentially zoned property. Furthermore, the applicant is

seeking to bring an existing shop/warehouse building into conformance with current Code.

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2. **Size of Site:** 10,155 square feet for the rezoning area. The overall site is 40,552-square feet.
  3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.
  4. **Existing Land Use (site):** The overall property is comprised of a 40,552-square foot parcel containing a 6,180-square foot metal shop building used for the applicant's vehicle and equipment repair business. The northern portion of the building is within the residentially zoned portion of the parcel, which is the subject of the rezoning.
  5. **Adjacent Land Use and Zoning:**

**North** – "R1-60", *Uses are single-family dwellings.*

**South** – "M-1", *Use is Des Moines Public Schools Operations Center.*

**East** – "R1-60", *Use is Northern Lights Pizza offices and warehouse.*

**West** – "M-1", *Use is Deeveer Roofing contractor business.*

6. **General Neighborhood/Area Land Uses:** The subject property is located in a transition area between the Dean Avenue industrial corridor and the Capitol East residential neighborhood to the north.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Capitol East Neighborhood. The neighborhood was notified of the original meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on June 16, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on June 16, 2017 (20 days prior to the hearing) and June 26, 2017 (10 days prior to the hearing), to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on June 30, 2017.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Capitol East Neighborhood Association mailings were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

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

8. **Relevant Zoning History:** N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.

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- 10. Applicable Regulations:** Taking into consideration 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: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as Industrial. Therefore, the proposed rezoning to "M-1" Light Industrial District is in conformance with the future land use plan. Staff believes that it would be appropriate to legitimize the existing vehicle and equipment repair business where there the zoning boundary transects the existing industrial building. This is so long as the permitted uses of the property are limited, prohibiting the following uses: adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.

Staff believes that the use would present minimal impacts on the surrounding residential properties so long as any outdoor storage on the property complies with a Site Plan approved under provisions in the "M-1" District for a contractor equipment storage yard.

- 2. Permit and Development Center Comments:** Any construction or change of use on the site must be in compliance with the City's Site Plan regulations, including those regarding storm water management; off-street parking grading and soil erosion protection; tree removal and mitigation; landscaping and buffering; pavement design; and traffic and fire access.
- 3. Landscaping & Buffering:** Any development of the site would require landscaping in accordance with the City's Landscape Standards. These standards generally include open space, bufferyard, and parking lot plantings. Staff believes that if the property is rezoned to "M-1" District, any future development or reuse of the site should be in compliance with the landscaping requirements for the "C-2" District to ensure compatibility with the surrounding neighborhood. Staff notes that any future Site Plan would be required to provide a minimum of a 7-foot landscaped paving setback along the front property line.

Future development of the site would also be subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

- 4. Drainage/Grading:** Any additional development of the site must also comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.

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5. **Utilities:** There is an existing 8-inch water main in the East 19<sup>th</sup> Court Right-Of-Way. There is also public sanitary sewer in East 19<sup>th</sup> Court and there is public storm sewer within the private property the west with intakes available in Dean Avenue just to the west of the subject property.
6. **Access or Parking:** The site has two existing access drives to East 19<sup>th</sup> Court and Dean Avenue. There is also non-conforming parking with maneuvering/backing from the subject property into East 19<sup>th</sup> Court. Any Site Plan for the property would require paving of all parking and maneuvering aisles.

## SUMMARY OF DISCUSSION

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

## COMMISSION ACTION:

Jann Freed moved staff recommendation for approval of the requested rezoning subject to the following conditions.

1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
2. Any outdoor storage on the property shall comply with the following requirements.
  - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.

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- d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
  3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
  4. Any development of the property under a Site Plan shall 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

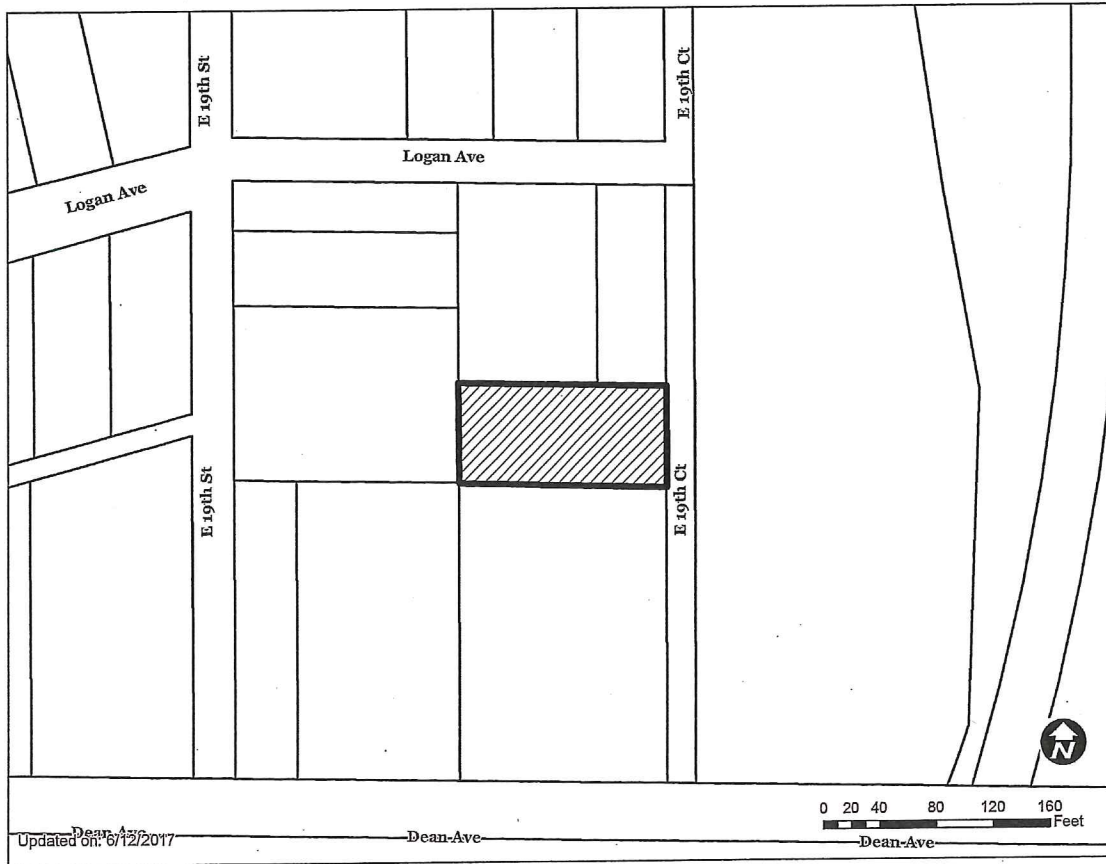
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Attachment

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Brian Johnson (owner) for property located at 1916 Dean Avenue.			File # ZON2017-00102	
<b>Description of Action</b>	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning, subject to conditions.			
<b>PlanDSM Future Land Use</b>	Current: Industrial. Proposed: N/A.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
<b>Subject Property</b>	3	0		
<b>Outside Area (200 feet)</b>				
<b>Plan and Zoning Commission Action</b>	Approval	13-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No X

Brian Johnson, 1916 Dean Avenue

ZON2017-00102



1 inch = 79 feet

17-1500  
17-425

Item ZON2017-00102 Date 6/28/17

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

(Circle One)  
**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Signature

JUL 03 2017

Address

Curt G. Hill  
[Signature]  
212 E 19th ST

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

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

ZON2017-00102

Item \_\_\_\_\_ Date 6-29-17

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

(Circle One)  
**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Signature

JUL 05 2017

Address

FLOYD MANLEY J. JR.  
[Signature]  
11921 Logan Ave

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

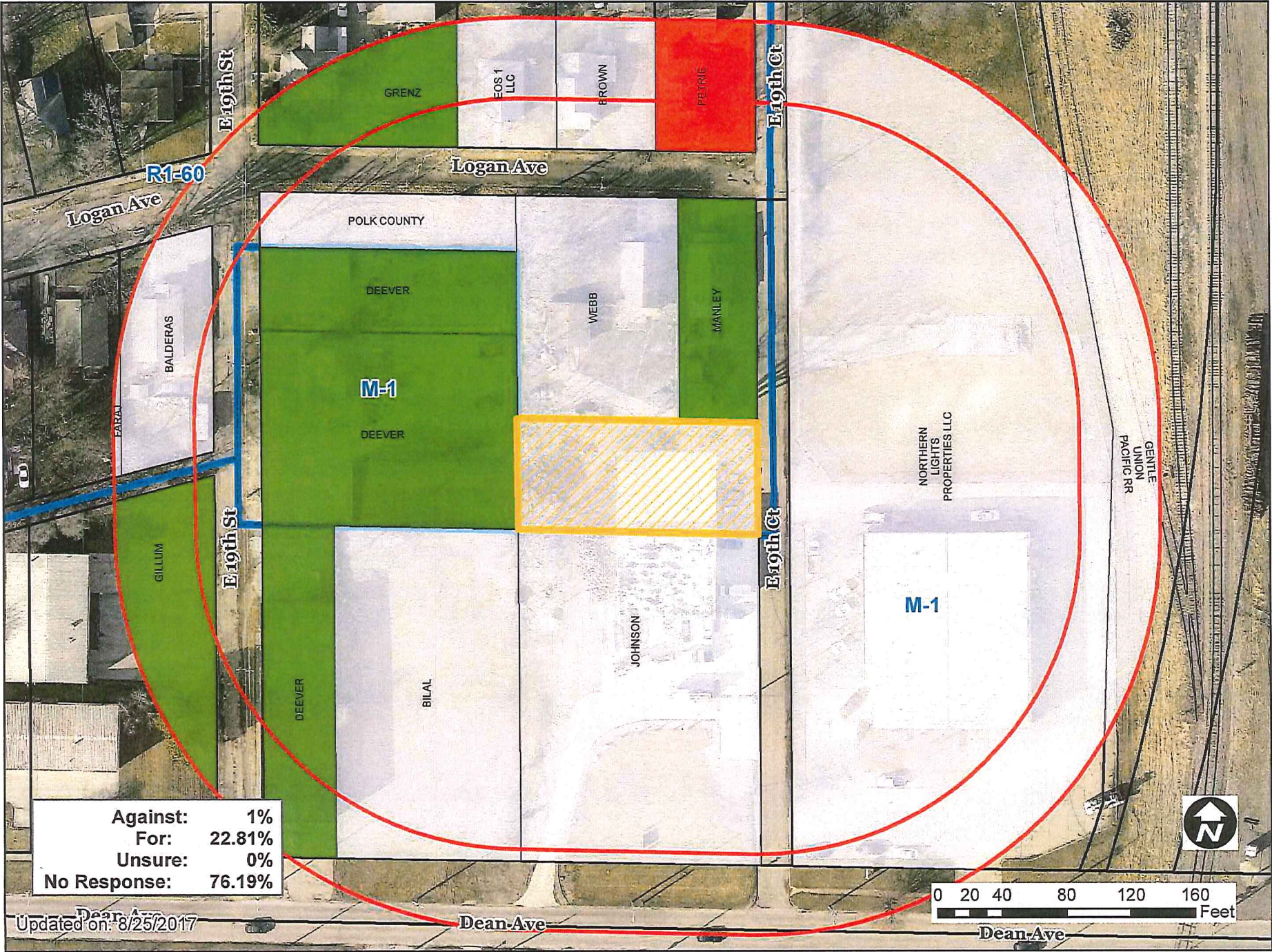
Not seems to bother no one  
\_\_\_\_\_  
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17-1500

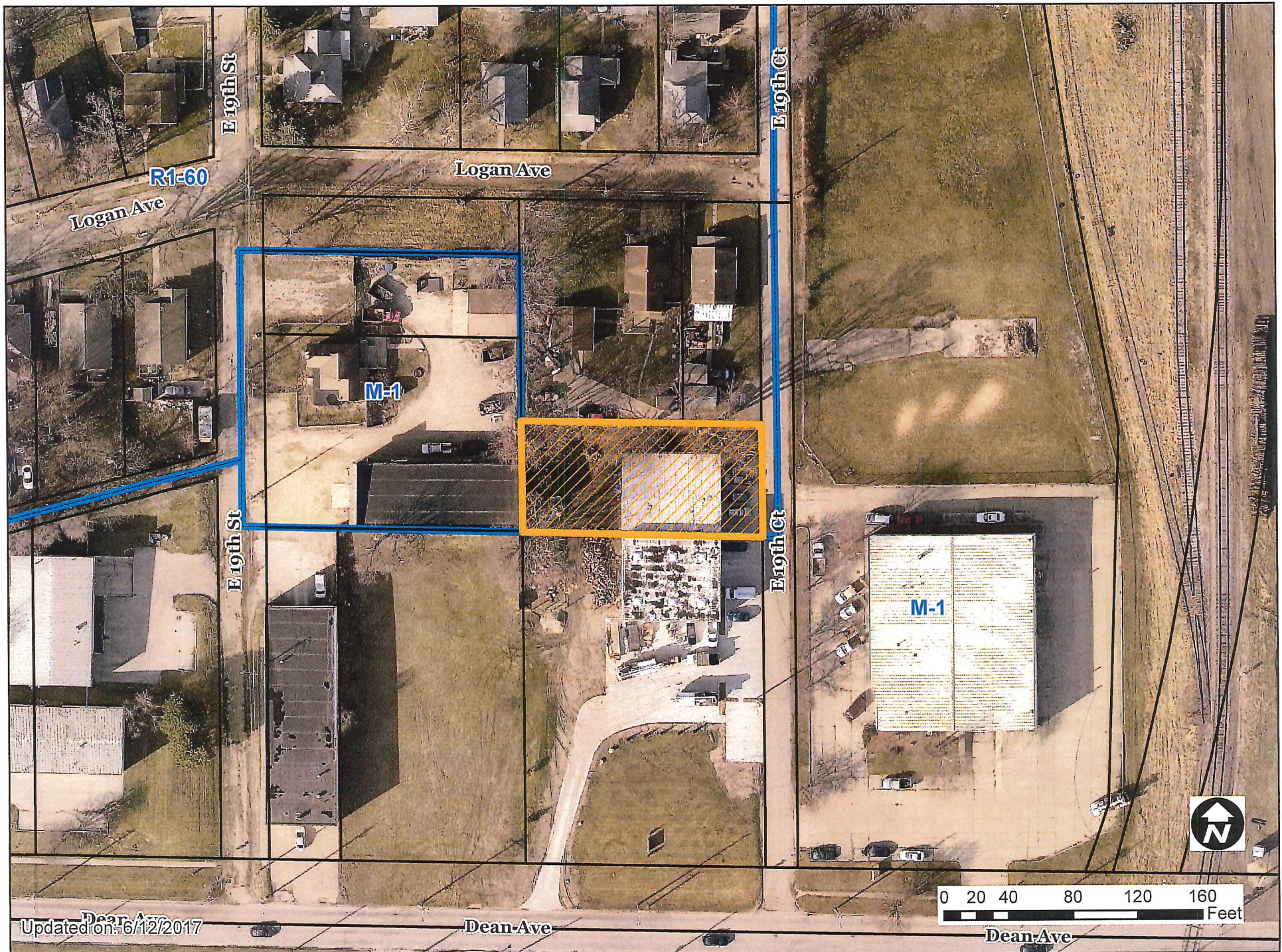
ZON2017-00102  
Item                      Date 7-3-17  
I (am) (am not) in favor of the request.  
(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
JUL 10 2017  
Print Name Connie Grommet  
Signature Connie Grommet  
Address 1916 Logan Ave.  
Reason for opposing or approving this request may be listed below.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2017-00102  
Item                      Date 6-30-2017  
I (am) (am not) in favor of the request.  
(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
JUL 10 2017  
Print Name Costello Glenz  
Signature Costello Glenz  
Address 383 E 19th St.  
Reason for opposing or approving this request may be listed below.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2017-00102  
Item                      Date 7/7/2017  
I (am) (am not) in favor of the request.  
(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
JUL 11 2017  
Print Name Kenneth W Deever Jr  
Signature Kenneth W Deever Jr  
Address 2315 E. Main Ave  
Dear Mother DA 50320  
Reason for opposing or approving this request may be listed below.  
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\_\_\_\_\_



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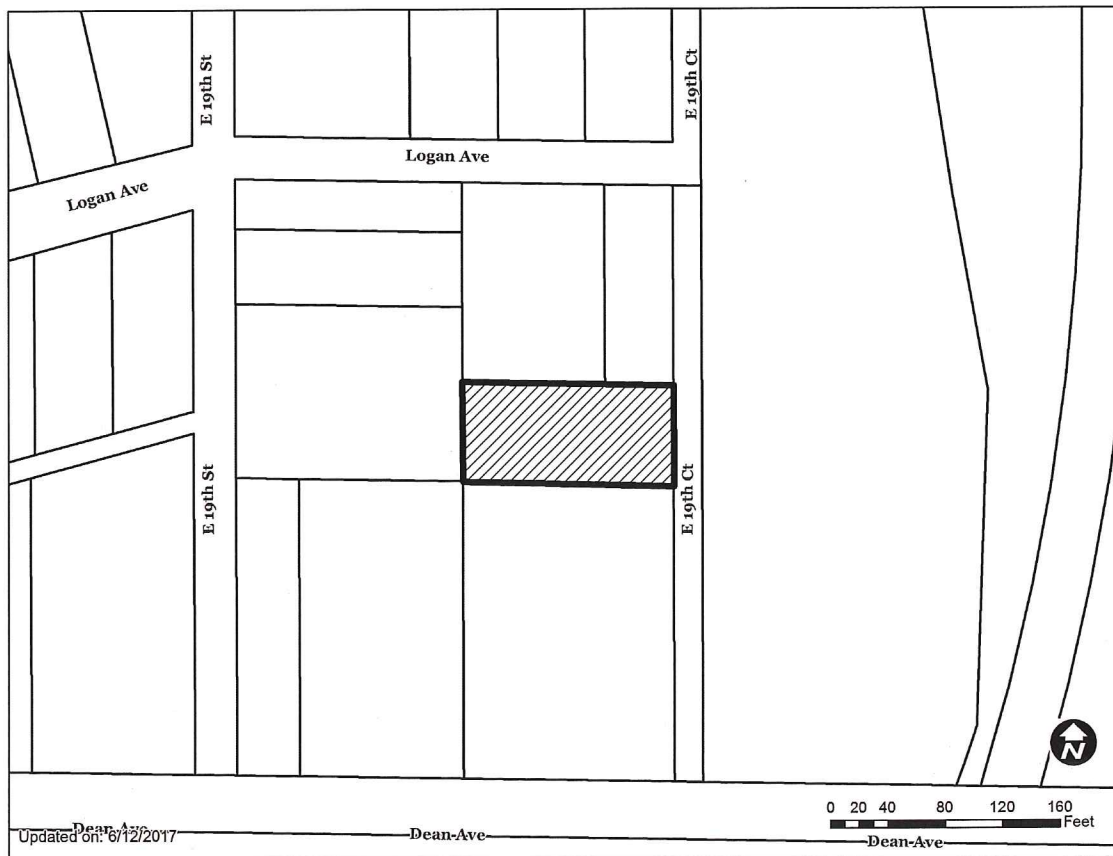


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Brian Johnson (owner) for property located at 1916 Dean Avenue.		File #	
		ZON2017-00102	
<b>Description of Action</b>	Approval of reconsideration of the Plan and Zoning Commission's recommendation for rezoning of property from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning and the recommendation to prohibit vehicle display lots, subject to conditions.		
<b>PlanDSM Future Land Use</b>	Current: Industrial. Proposed: N/A.		
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.		
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.		
<b>Proposed Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.		
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined
<b>Subject Property</b>	3	1	
<b>Outside Area (200 feet)</b>			
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>
	Denial		
			Yes
			No
			X

Brian Johnson, 1916 Dean Avenue

ZON2017-00102



1 inch = 79 feet



September 19, 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 September 7, 2017, the Plan and Zoning Commission regarding a request from Brian Johnson (owner) for reconsideration of the Plan and Zoning Commission's recommendation for rezoning the property located at 1916 Dean Avenue.

- A. Determination as to whether the proposed rezoning is in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation.
- B. Rezoning of property from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District, to allow the existing contractor business on a split-zoned property to be brought more into conformance with zoning and to reconsider the recommendation to prohibit vehicle display lots.

**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 "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan and approval of Part B) to allow a vehicle display on the south portion of the lot with the following conditions: (ZON2017-00102)

(1) The following shall be prohibited as permitted uses on the Property:

- a) adult entertainment businesses,
- b) outdoor display of vehicles for sale,
- c) taverns or nightclubs,
- d) liquor stores,
- e) off-premises advertising signs,
- f) pawn brokers, and
- g) delayed deposit services.

(2) Any outdoor storage on the Property shall comply with the following requirements:

- a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
- b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining residential (R) district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in the Des Moines Municipal Code.
- c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
- d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.

(3) The outside storage or expansion of the existing business on the Property shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.

(4) Any development of the Property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

#### Written Responses

3 in Favor

1 in Opposition

## STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the requested rezoning to "M-1" Light Industrial District in conformance with the PlanDSM: Creating Our Tomorrow future land use plan.

Part B) Staff recommends approval of the requested rezoning subject to the following conditions.

1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
2. Any outdoor storage on the property shall comply with the following requirements.
  - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
  - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the property under a Site Plan shall 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 rezoning would allow the property to be used legally for the owner's roofing contractor business. The applicant is seeking to remove the existing single-family dwelling on the property and continue to use a garage and shop warehouse building in association with the business. An accessory garage cannot be allowed to stand alone on a residentially zoned property. Furthermore, the applicant is seeking to bring an existing shop/warehouse building into conformance with current Code.
2. **Size of Site:** 10,155 square feet for the rezoning area. The overall site is 40,552-square feet.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The overall property is comprised of a 40,552-square foot parcel containing a 6,180-square foot metal shop building used for the applicant's vehicle and equipment repair business. The northern portion of the building is within the residentially zoned portion of the parcel, which is the subject of the rezoning.
5. **Adjacent Land Use and Zoning:**  
  
    **North** – "R1-60", *Uses are single-family dwellings.*  
  
    **South** - "M-1", *Use is Des Moines Public Schools Operations Center.*  
  
    **East** – "R1-60", *Use is Northern Lights Pizza offices and warehouse.*  
  
    **West** – "M-1", *Use is Deeever Roofing contractor business.*
6. **General Neighborhood/Area Land Uses:** The subject property is located in a transition area between the Dean Avenue industrial corridor and the Capitol East residential neighborhood to the north.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Capitol East Neighborhood. The neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on August 21, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on August 28, 2017 (10 days prior to the hearing), to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 1, 2017.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood

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Development Division. The Capitol East Neighborhood Association mailings were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

**8. Relevant Zoning History:** This item was reviewed by the Plan and Zoning Commission at their hearing on July 6, 2017. At that time they recommended approval of the requested rezoning subject to the following conditions as part of the Consent Agenda:

1. The following shall be prohibited as permitted uses:
  - a) adult entertainment businesses,
  - b) vehicle display lots,
  - c) taverns or nightclubs,
  - d) liquor stores,
  - e) off-premises advertising signs,
  - f) pawn brokers, and
  - g) delayed deposit services.
2. Any outdoor storage on the property shall comply with the following requirements.
  - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
  - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining R district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
  - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
  - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.
3. The outside storage or expansion of the existing business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

The applicant was not present at the hearing on July 6, 2017. He has now indicated that his intentions for the property were to have a vehicle display lot in the future and

would not accept the recommended condition that would prohibit this use. The hearing of the City Council on August 14, 2017 was continued to the August 28, 2017 meeting, and now has been continued to September 25, 2017 to allow the Plan and Zoning Commission to reconsider this item.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Industrial.**

- 10. Applicable Regulations:** Taking into consideration 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: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as Industrial. Therefore, the proposed rezoning to “M-1” Light Industrial District is in conformance with the future land use plan. Staff believes that it would be appropriate to legitimize the existing vehicle and equipment repair business where there the zoning boundary transects the existing industrial building. However, Staff believes that limitations on some use remain justified.

Staff believes that the vehicle and equipment repair use would present minimal impacts on the surrounding residential properties so long as any outdoor storage on the property complies with a Site Plan approved under provisions in the “M-1” District for a contractor equipment storage yard. Any future uses would be subject to the standards and processes in effect at that time.

- 2. Permit and Development Center Comments:** Any construction or change of use on the site must be in compliance with the City’s Site Plan regulations, including those regarding storm water management; off-street parking grading and soil erosion protection; tree removal and mitigation; landscaping and buffering; pavement design; and traffic and fire access.
- 3. Landscaping & Buffering:** Any development of the site would require landscaping in accordance with the City’s Landscape Standards. These standards generally include open space, bufferyard, and parking lot plantings. Staff believes that if the property is rezoned to “M-1” District, any future development or reuse of the site should be in compliance with the landscaping requirements for the “C-2” District to ensure compatibility with the surrounding neighborhood. Staff notes that any future Site Plan would be required to provide a minimum of a 7-foot landscaped paving setback along the front property line.

Development of the site would also be subject to the City’s Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

4. **Drainage/Grading:** Any additional development of the site must also comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.
5. **Utilities:** There is an existing 8-inch water main in the East 19<sup>th</sup> Court Right-Of-Way. There is also public sanitary sewer in East 19<sup>th</sup> Court and there is public storm sewer within the private property the west with intakes available in Dean Avenue just to the west of the subject property.
6. **Access or Parking:** The site has two existing access drives to East 19<sup>th</sup> Court and Dean Avenue. There is also non-conforming parking with maneuvering/backing from the subject property into East 19<sup>th</sup> Court. Any Site Plan for the property would require paving of all parking and maneuvering aisles.
7. **Staff Rationale:** In reconsidering the recommendation for a condition to prohibit vehicle display lots, Staff continues to make a determination that the impacts of that use on the nearby residences would be detrimental and therefore should be prohibited. These impacts to the neighborhood would include lighting typical with display uses and the added customer traffic generated by the sales activity to view vehicles on display within the lot.

Should the Commission determine it is appropriate to allow the vehicle display lot use as part of the recommended rezoning, then Staff believes that there should be a condition that any vehicle display lot shall comply with all Site Plan requirements for such use. This would include review by the Commission under the current design guidelines for vehicle display lots or review by the Commission for any exception to design standards under any future adopted Site Plan requirements.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation. The applicant has asked for a change of use for this property. Staff still recommends prohibition of a vehicle display lot use for this property.

Brian Johnson 1916 Dean Ave. explained his potential use for the building as a repair shop for the north end of the building and a display lot only to the south portion of the building.

JoAnne Corigliano asked who owned the building on the south side of Dean Avenue.

Brian Johnson stated it is the Des Moines Public School's construction yard. Everything to the south is all industrial or light industrial. The only residential is some to the north of the property.

Greg Wattier asked what conditions in the staff recommendation is he not agreeable to.

Brian Johnson stated that he would like to have item 1b stricken from the conditions permit use for a vehicle display lot.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jacquie Easley asked if anyone was present that wanted to speak on the item. None were present or requested to speak.

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

### **COMMISSION ACTION:**

JoAnne Corigliano moved staff with the approval to allow vehicle display on the lot.

Greg Jones made friendly amendment request to only allow vehicle display on the south side of the lot.

Joanne Corigliano accepted the amendment to allow a vehicle display on the south portion of the lot with the following conditions:

(1) The following shall be prohibited as permitted uses on the Property:

- a) adult entertainment businesses,
- b) outdoor display of vehicles for sale,
- c) taverns or nightclubs,
- d) liquor stores,
- e) off-premises advertising signs,
- f) pawn brokers, and
- g) delayed deposit services.

(2) Any outdoor storage on the Property shall comply with the following requirements:

- a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
- b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining residential (R) district; shall be set back a minimum of 25 feet from any adjoining streets and alleys; and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in the Des Moines Municipal Code.
- c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as 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.
- d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by City Code Section 134-3.

(3) The outside storage or expansion of the existing business on the Property shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.

- (4) Any development of the Property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Motion Passed: 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

Item ZON2017-00102

Date 9-1-2017

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

(Circle One)

Print Name Costello Grenz

Signature Costello Grenz

Address 233 E 19th St.

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 07 2017  
Reason for opposing or approving this request may be listed below.

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

Item ZON2017-00102

Date 8/31/17

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

(Circle One)

Print Name Curt G. Llan

Signature Curt G. Llan

Address 212 E 19th St

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 06 2017

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

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

Item ZON2017-00102

Date 8-31-17

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

(Circle One)

Print Name Ken Deever

Signature Ken Deever

Address 2315 E. meadow LN

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 06 2017

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

IT should be rezoned  
light commercial

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

Item ZON2017-00102

Date 9-3-17

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

(Circle One)

COMMUNITY DEVELOPMENT

Print Name Connie Grammet

Signature Connie Grammet

SEP 07 2017

Address 1916 Logan Ave

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

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