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Date March 19, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM
OPERATING ENGINEERS, LOCAL 234, BUILDING CORPORATION TO
REZONE PROPERTY AT 4880 HUBBELL AVENUE**

WHEREAS, on March 8, 2018, by Roll Call No. 18-0353, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on February 15, 2018, its members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from Operating Engineers, Local 234, Building Corporation (owner), represented by Tracy Petersen (officer), to rezone property locally known as 4880 Hubbell Avenue ("Property") from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing union hall site within the Property, subject to the following rezoning conditions:

1. Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
2. The following uses shall be prohibited upon the Property:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 40% of its gross sales from the sale of alcoholic liquor, wine, beer, and/or tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Off-premises advertising signs,
 - f. Pawn brokers,
 - g. Taverns or nightclubs, and
 - h. Vehicle display lots; and

WHEREAS, on March 8, 2018, by Roll Call No. 18-0353, it was duly resolved by the City Council that the application of Operating Engineers, Local 234, Building Corporation to rezone the Property, as legally described below, be set down for hearing on March 19, 2018 at 5:00 p.m. in the Council Chambers at the Municipal Service Center; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed amendment to the 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 4880 Hubbell Avenue, legally described as:



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A tract of land in the South Half (S ½) of the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) of Section 15, Township 79 North, Range 23 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described, to-wit:

Commencing at the Southwest corner of the SE ¼, SW ¼ of said Section 15 (the West line of said SE ¼ SW ¼ having an assumed bearing of N 00°00'30" W); thence N 00°00'30" W, along the West line of said SE ¼, SW ¼, a distance of 493.80 feet to the point of beginning; thence N 00°00'30" W, a distance of 170.00 feet; more or less, to the North line of the South half of said SE ¼, SW ¼; thence S 89°45'30" E, along the North line of the South half of said SE ¼, SW ¼ a distance of 477.9 feet; thence S 49°10'00" W, a distance of 258.73 feet; thence N 89°45'30" W, a distance of 282.11 feet to the point of beginning. Said tract of land containing 1.48 acres more or less.

And

A tract of land in the South Half of the Southeast Quarter of the Southwest Quarter of Section 15, Township 79 North, Range 23 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described, to-wit:

Commencing at the Southwest corner of the SE ¼ SW ¼ of said Section 15 (the West line of said SE ¼, SW ¼ having an assumed bearing of N 00°00'30" W); thence N 00°00'30" W, along the West line of said SE ¼, SW ¼, a distance of 236.6 feet to the point of beginning; thence N 00°00'30" W, a distance of 257.20 feet; thence S 89°45'30" E, a distance of 282.11 feet; thence S 49°10'00" W, a distance of 312.77 feet; thence S 41°25'00" W, a distance of 68.70 feet to the point of beginning. Said tract of land containing 0.80 acres, more or less.

All now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from "A-1" Agricultural District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow expansion of the existing union hall site within the Property, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner(s) of the Property, which is binding upon the owner(s) and their 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 Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.

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2. The proposed rezoning of the Property to Limited "C-2" General Retail and Highway-Oriented Commercial District with conditions as set forth above, 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

(ZON2018-00001)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

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February 26, 2018

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their February 15, 2018 meeting, the following action was taken regarding a request from Operating Engineers, Local 234, Building Corporation (owner), represented by Tracy Petersen (officer), to rezone property located at 4880 Hubbell Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Chris Cutler				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) proposed rezoning be found in conformance with the existing PlanDSM future land use plan designation of Business Park.

Part B) rezoning "A-1" District to "C-2" District, subject to the following conditions:

1. Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
2. The following uses shall be prohibited upon the property:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 40% of its gross sales from the sale of alcoholic liquor, wine, beer, and/or tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Off-premises advertising signs,
 - f. Pawn brokers,
 - g. Taverns or nightclubs, and
 - h. Vehicle display lots.

(ZON2018-00001)

Written Responses

1 in Favor

0 in Opposition

STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing PlanDSM Creating Our Tomorrow future land use designation of Business Park.

Part B) Staff recommends approval of the requested rezoning from "A-1" District to "C-2" District, subject to the following conditions:

1. Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
2. The following uses shall be prohibited upon the property:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 40% of its gross sales from the sale of alcoholic liquor, wine, beer, and/or tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Off-premises advertising signs,
 - f. Pawn brokers,
 - g. Taverns or nightclubs, and
 - h. Vehicle display lots.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow for expansion of an existing office and assembly use (Operating Engineers Local 234), which is a legal nonconforming use in the current "A-1" Agricultural District. The submitted site sketch demonstrates that the expansion would include a 1,500-square foot building addition and additional off-street parking. Any future construction on the property must be in accordance with a Site Plan as reviewed and approved by the City's Permit and Development Center.
2. **Size of Site:** The two parcels proposed for rezoning have a combined area of 100,754 square feet (2.31 acres).
3. **Existing Zoning (site):** "A-1" Agricultural District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The site contains the existing commercial building occupied by Operating Engineers Local 234.
5. **Adjacent Land Use and Zoning:**
 - North – *"A-1"; Use is a production facility and warehouse for Watts Vault and Monument Company.*
 - South – *"M-1"; Use is a miniwarehouse.*
 - East – *"PUD"; Use is Kum & Go convenience store.*
 - West – *"A-1"; Uses are agricultural production and single-family dwellings.*
6. **General Neighborhood/Area Land Uses:** The subject site is located along the northwesterly side Hubbell Avenue just to the west of the Highway 65/69 bypass. This area includes a mix of commercial and industrial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized neighborhood association. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 26, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on January 26, 2018 (20 days prior to the scheduled hearing) and on February 5, 2018 (10 days prior to the scheduled hearing) 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 recognized neighborhood associations on February 9, 2018.

The applicant held their required neighborhood meeting on February 7, 2018, and will be available to provide a summary of the meeting at the public hearing.

8. **Relevant Zoning History:** The subject property has been zoned "A-1" Agricultural District since it was annexed to the City of Des Moines in 2009.
9. **PlanDSM Creating Our Tomorrow:** The subject site is designated as Business Park on the Future Land Use Map.
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. **PlanDSM Creating Our Tomorrow:** The subject property is located within an area designated as "Business Park". This designation is intended to "Accommodate light industrial, office and employment uses, along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences and would have little or no adverse effect on surrounding properties."

While the proposed "C-2" General Retail and Highway-Oriented Commercial District is in conformance with this designation, staff recommends that the following uses be prohibited upon the property to ensure compatibility within existing uses in the area:

- a. Adult entertainment businesses,
 - b. Any business that derives more than 40% of its gross sales from the sale of alcoholic liquor, wine, beer, and/or tobacco products
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Off-premises advertising signs,
 - f. Pawn brokers,
 - g. Taverns or nightclubs, and
 - h. Vehicle display lots.
2. **Site Plan Requirements:** Any future development of the site must conform to the City's Site Plan requirements, including those regarding stormwater management, landscaping, and screening of adjoining residential properties. Also, any development of the site must be in compliance with the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).
 3. **Access & Traffic:** The property is access from a frontage road along Hubbell Avenue.

The City's Traffic and Transportation Division has indicated that a Traffic Impact Analysis is not required at this time.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Tracy Peterson, 4880 Hubbell Avenue, representing the Operating Engineers, Local 234, stated they wish to expand their current building and add more parking. They are requesting a change of zoning.

Lowell Kramme, 4653 E. 46th Street, stated that he is in support of the building expansion and noted that the Union Hall had always been a good neighbor. He did share his concerns of the growing water shed issue that has continued to get worse over the past 50 years that he has owned the adjoining farm land. He was asking that this be given extra attention as to not cause any further damage to his property. Retention ponds or a better storm drainage process he believes would help the situation. He states that he now has six acres that cannot be planted with anything due to the current water run off saturation and during times of heavy rain, it is actually a very dangerous rapid flow that goes across his land.

Tracy Peterson agrees that there has been water shed issues, but believes it started with the addition of the bypass. If they are allowed to expand, they will go through the process with an engineer to be certain that proper specifications and studies are done for water shed on their site plan.

Erik Lundy also commented that this project would require a site plan and due to the size of the property, it will also require a stormwater management plan for both water quality detention improvements and flood control detention improvements.

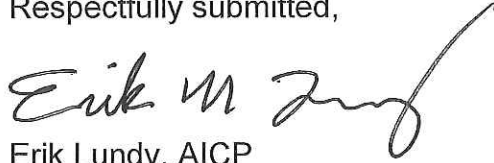
COMMISSION ACTION:

David Courard-Hauri moved for approval of the requested rezoning from "A-1" District to "C-2" District, subject to the following conditions: Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.

1. The following uses shall be prohibited upon the property:
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Motion Passed: 8-0

Respectfully submitted,



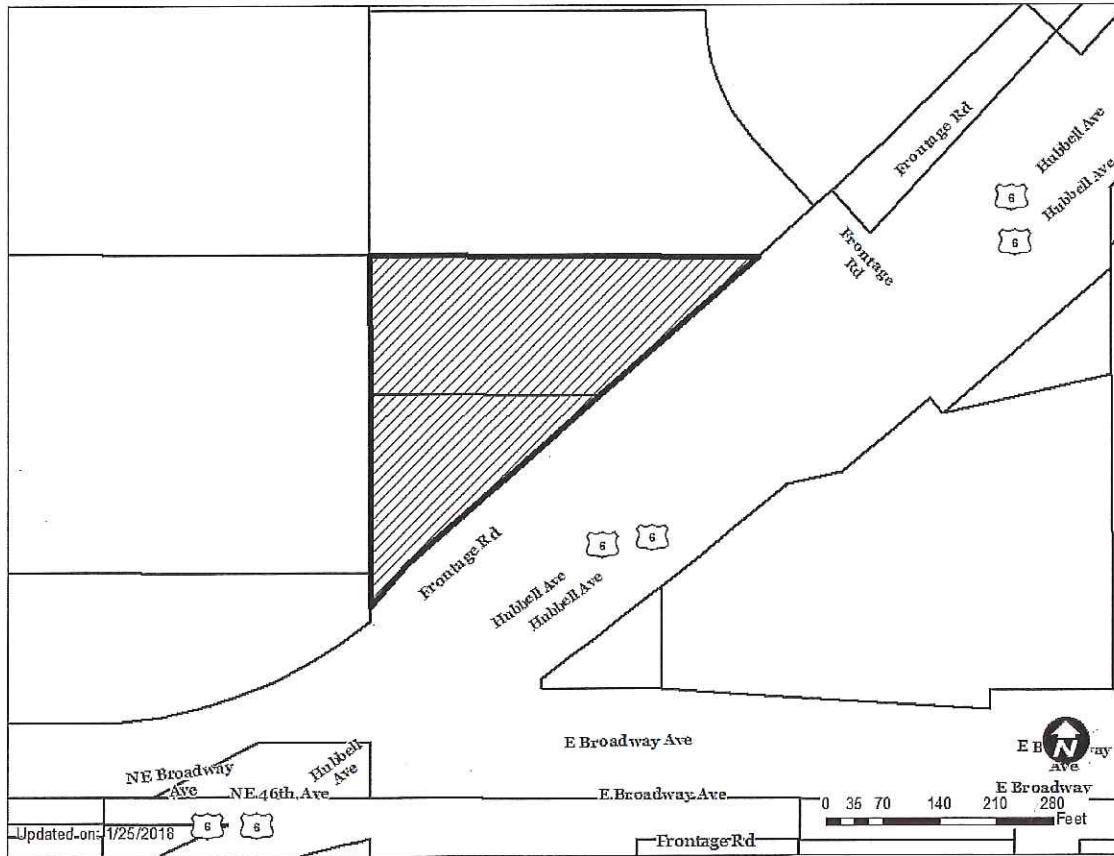
Erik Lundy, AICP
Senior City Planner

EML:tjh

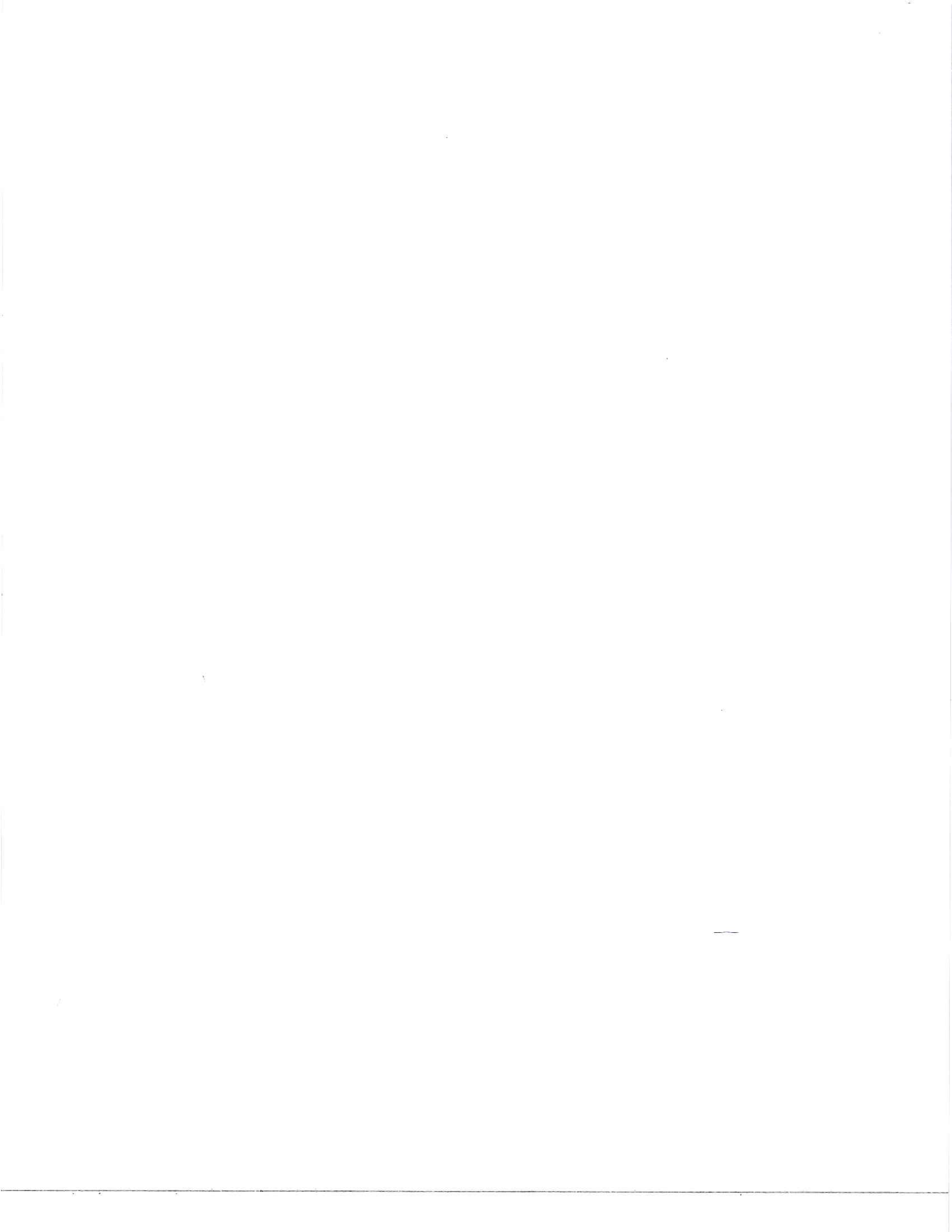
Operating Engineers, Local 234, Building Corporation (owner), represented by Tracy Petersen (officer) for property located at 4880 Hubbell Avenue			File #	
			ZON2018-00001	
Description of Action	Rezoning from "A-1" Agricultural District to "C-2" General Retail and Highway-Oriented Commercial District, to allow the expansion of the existing union hall site.			
PlanDSM Future Land Use	Current: Business Park. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"A-1" Agricultural District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	1	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Operating Engineers, Local 234, Building Corporation, 4880 Hubbell Avenue

ZON2018-00001



1 inch = 138 feet

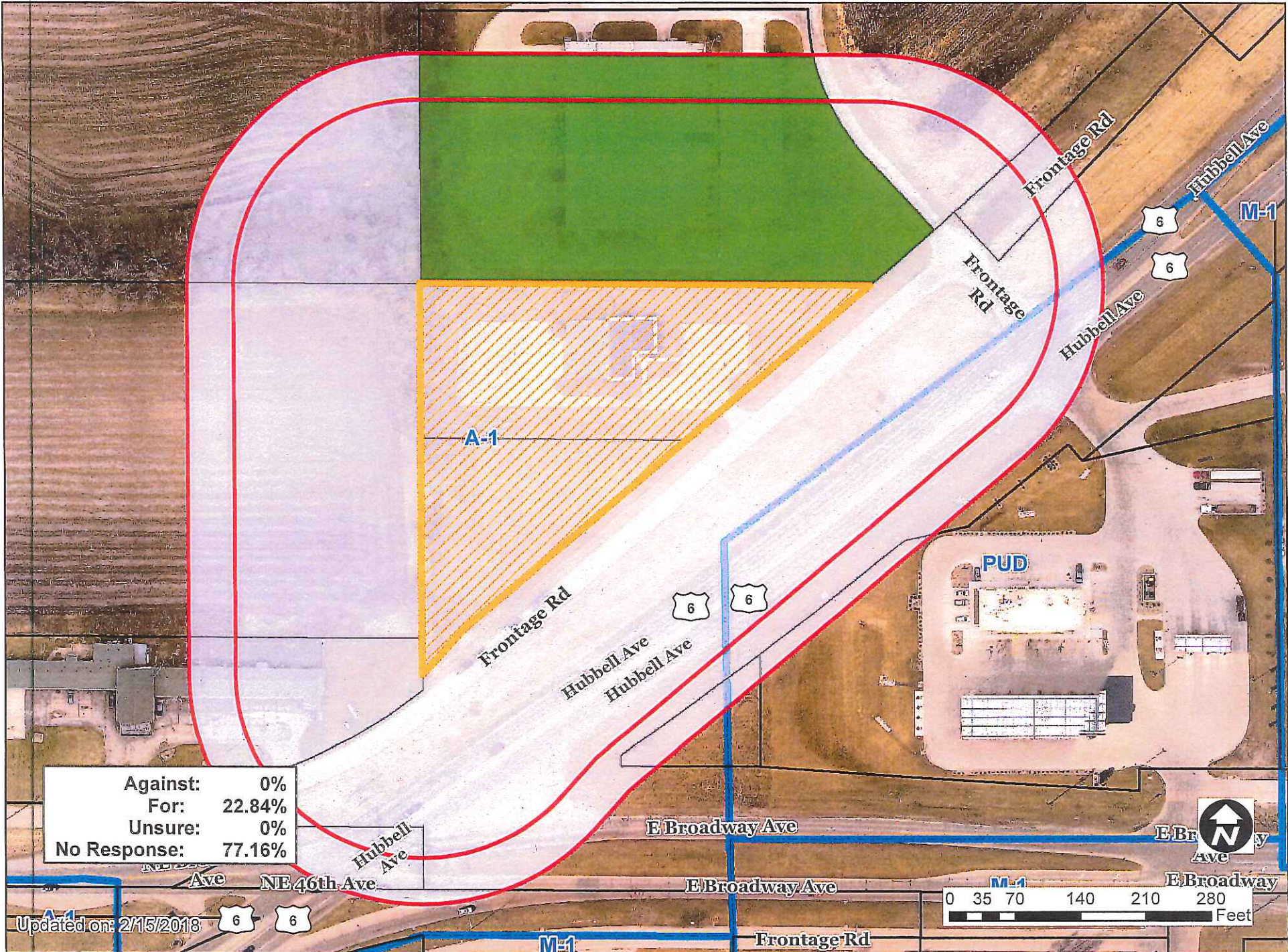


Item ZON2018-00001 Date 2/9/18

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

(Circle One)
RECEIVED Print Name Angie Schibel
COMMUNITY DEVELOPMENT Signature Angie Schibel
FEB 13 2018 Address 4920 Hubbell Ave.

Reason for opposing or approving this request may be listed below.
This change will in no matter
affect the business or land.



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