



Roll Call Number

Agenda Item Number

46A

Date July 9, 2018

RESOLUTION ON REQUEST FROM UTRAJ, LLC TO AMEND THE EXISTING PLANDSM: CREATING OUR TOMORROW PLAN FUTURE LAND USE DESIGNATION (2216 EAST 14TH STREET)

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan; and

WHEREAS, at a public hearing held on June 7, 2018, the City Plan and Zoning Commission voted 12-0 in support of a motion to recommend DENIAL of a request by Utraj, LLC (purchaser), represented by Utkarsh Mahajan (officer), to amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation for real property locally known as 2216 East 14th Street, from Neighborhood Mixed Use to Community Mixed Use, to allow for rezoning to Limited "C-2" General Retail and Highway-Oriented Commercial District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the PlanDSM: Creating Our Tomorrow Plan, as described above, is hereby approved / denied.

MOVED by _____ to adopt and APPROVE / DENY the proposed amendment.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(21-2018-4.10)

NOTE: Six affirmative votes are required to approve the proposed amendment due to the Plan and Zoning Commission's recommendation for denial. Des Moines City Code §82-78.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED indicators.

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.

Mayor

City Clerk



June 19, 2018

Date 7/19/18
 Agenda Item 46A
 Roll Call # _____

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 7, 2018 meeting, the following action was taken regarding a request from Utraj, LLC (purchaser) represented by Utkarsh Mahajan (officer) to rezone property located at 2216 East 14th Street from Limited "C-2" General Retail and Highway-Oriented Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use. The subject property is owned by Extreme Auto Plaza, Inc.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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) the Commission find the requested rezoning **not in conformance** with PlanDSM: Creating Our Tomorrow Plan, Part B) **Denial** of the request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Neighborhood Mixed Use to Community Mixed Use and Part C) **Denial** of the requested rezoning from Limited "C-2" General Retail and Highway-Oriented Commercial District to a Limited "C-2" District that allows packaged liquor sales as part of a Limited Retail/Food Sales use or Gas Station/Convenience Store Use. (21-2018-4.10) & (ZON2018-00072)

Written Responses

3 in Favor

7 in Opposition

STAFF RECOMMENDATION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with PlanDSM: Creating Our Tomorrow Plan.

Part B) Staff recommends denial of the request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Neighborhood Mixed Use to Community Mixed Use.

Part C) Staff recommends denial of the requested rezoning from Limited "C-2" General Retail and Highway-Oriented Commercial District to a Limited "C-2" District that allows packaged liquor sales as part of a Limited Retail/Food Sales use or Gas Station/Convenience Store Use.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** On April 16, 1990, by Ordinance No. 11,463, the City Council rezoned the subject property to Limited "C-2" District subject to uses being restricted to those allowed in the "C-1" District and used car sale lots. The applicant is proposing to convert the existing 3,218 square foot, auto sales and service building to a limited retail/food sales business with packaged liquor sales.

Liquor sales is not allowed in the "C-1" District. It is a Conditional Use in the "C-2" District. The proposed rezoning would add the proposed use to the current list of allowed uses. Should the proposed rezoning be approved, the applicant would be required to obtain a Conditional Use Permit from the Zoning Board of Adjustment.

2. **Size of Site:** 0.55 Acres (23,965 square feet).
3. **Existing Zoning (site):** Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, "FSO" Freestanding Sign Overlay District and "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Vacant used car sales lot.

5. Adjacent Land Use and Zoning:

North – “C-1”, Use is a vacant convenience store building.

South - “C-1”, Use is a single-family dwelling.

East – “C-1” and “R1-60”, Uses are single-family dwellings.

West – “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the East 14th Street / U.S. Highway 69 corridor at the Guthrie Avenue intersection. The area consists of limited commercial uses at the intersection surrounded by single-family dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Union Park Neighborhood. The neighborhood was notified of the public hearing held on May 17, 2018 by mailing of the Preliminary Agenda for the May 17, 2018 meeting on May 27, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on April 27, 2018 (20 days prior to the May 17, 2018 hearing) and May 7, 2018 (10 days prior to the May 17, 2018 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 May 17, 2018 hearing was mailed to the neighborhood on May 11, 2018. A Final Agenda for the June 7, 2018 hearing was mailed on June 1, 2018.

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 Union Park Neighborhood Association mailings were sent to Jack Daugherty, PO Box 16113, Des Moines, IA 50316.

8. **Relevant Zoning History:** On April 16, 1990, by Ordinance No. 11,463, the City Council rezoned the subject property to Limited “C-2” District subject to uses being restricted to those allowed in the “C-1” District and used car sales lot use.

9. **PlanDSM Future Land Use Plan Designation:** Neighborhood Mixed Use.

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

II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated as “Neighborhood Mixed Use” on the Future Land Use Map. Plan DSM describes this designation as follows:

Small scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, office, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development.

The East 14th Street and Guthrie Avenue intersection contains a minor cluster of commercial properties. The two commercial properties north of Guthrie Avenue are zoned "C-1" Neighborhood Retail Commercial District. The properties at the southeast corner of the intersection are zoned "C-1" District and contain single-family dwellings. The "C-1" District does not allow packaged liquor sales.

Staff believes that the proposed limited "C-2" District is not in conformance with the Neighborhood Mixed Use designation. The proposed packaged liquor sales business is a high impact use. The site is adjoined by six residential properties. These lots are small and the dwellings have minimal separation from the subject property. Staff believes that the proposed rezoning would have a negative impact on the surrounding area.

- 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. All grading is subject to an approved grading permit and soil erosion control plan.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Jacqueline Easley asked if the applicant was present?

Erik Lundy stated the applicant nor the applicant's representative are present.

CHAIRPERSON OPENED THE PUBLIC HEARING

Marsha Steele asked if neighbors should be present at the City Council meeting?

Jacqueline Easley advised if the commission approves the denial, it would take a 6/7 vote from City Council to overturn.

Sue Wadley, 2213 E 14th asked when the decision will be made?

Glenna Frank advised there will be an action to set the hearing date at the June 25th City Council meeting and anticipates the hearing being held on, July 9th.

Will Page noted there is a Council item on the June 11 agenda about Triple Double's request to surrender their liquor license. The neighbors may have an interest in that as well.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) the Commission find the requested rezoning **not in conformance** with PlanDSM: Creating Our Tomorrow Plan, Part B) **Denial** of the request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Neighborhood Mixed Use to Community Mixed Use and Part C) **Denial** of the requested rezoning from Limited "C-2" General Retail and Highway-Oriented Commercial District to a Limited "C-2" District that allows packaged liquor sales as part of a Limited Retail/Food Sales use or Gas Station/Convenience Store Use.

Motion Passed: 12-0

Respectfully submitted,


Michael Ludwig, AICP
Planning Administrator

EML:tjh

Utraj, LLC (purchaser) represented by Utkarsh Mahajan (officer) for property located at 2216 East 14th Street. The subject property is owned by Extreme Auto Plaza, Inc.		File # ZON2018-00072			
Description of Action	Rezoning from Limited "C-2" General Retail and Highway-Oriented Commercial District to "C-2" General Retail and Highway-Oriented Commercial District with the ability to sell packaged liquor as part of a Limited Retail/Food Sales Use or Gas Station/Convenience Store Use.				
Plan/DSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	2025-2050 US 69/East 14 th Street widen from 4 lanes to 5				
Current Zoning District	Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	Revised Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	3	7			
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	X		No	

Utraj, LLC, 2216 East 14th Street

ZON2018-00072

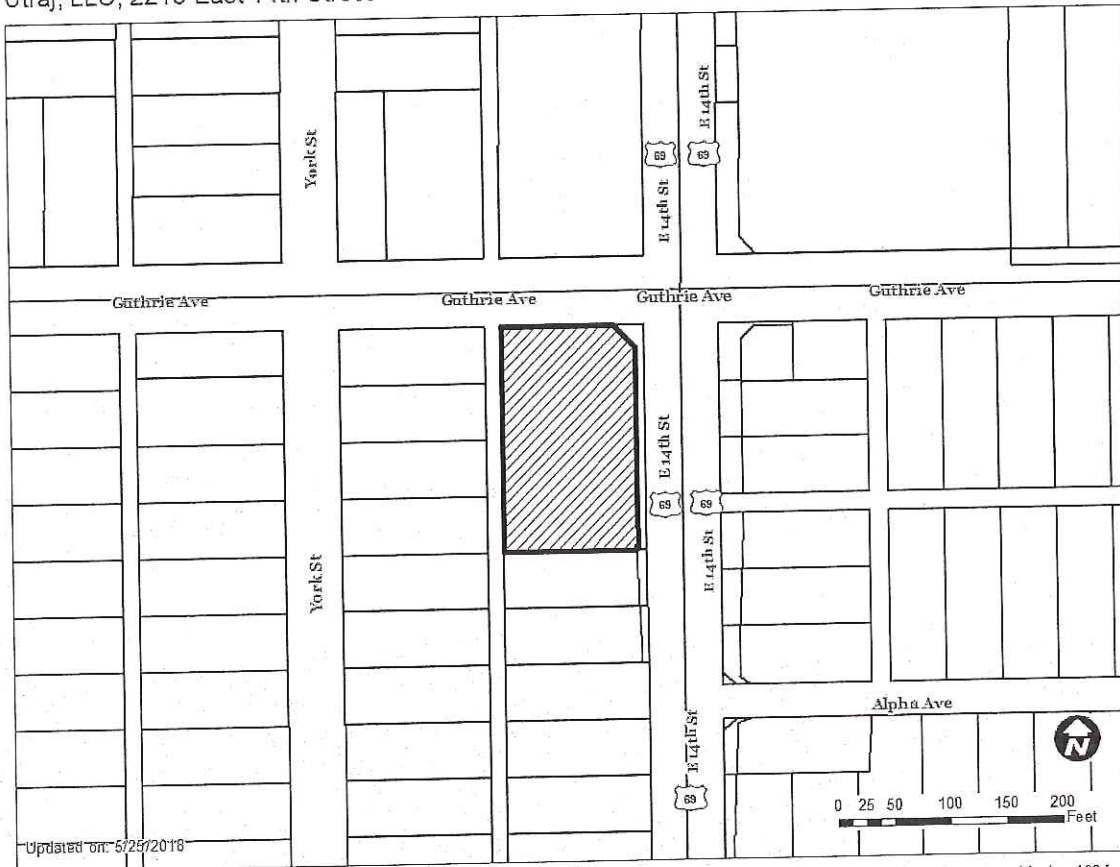


1 inch = 100 feet

Utraj, LLC (purchaser) represented by Utkarsh Mahajan (officer) for property located at 2216 East 14th Street. The subject property is owned by Extreme Auto Plaza, Inc.		File # 21-2018-4.10	
Description of Action	Amend the existing PlanDSM Creating Our Tomorrow future land use designation from Neighborhood Mixed Use to Community Mixed Use.		
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: Community Mixed Use.		
Mobilizing Tomorrow Transportation Plan	2025-2050 US 69/East 14 th Street widen from 4 lanes to 5		
Current Zoning District	Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.		
Proposed Zoning District	Revised Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.		
Consent Card Responses	In Favor	Not In Favor	Undetermined
Subject Property	3	7	
Outside Area (200 feet)			
Plan and Zoning Commission Action	Approval		Yes
	Denial	X	No
		Required 6/7 Vote of the City Council	
		X	

Utraj, LLC, 2216 East 14th Street

21-2018-4.10



1 inch = 100 feet

Item ZON2018-00072 Date 5-17-18

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

(Circle One)
RECEIVED Print Name Terry Roberts
COMMUNITY DEVELOPMENT Signature [Signature]
Address 2203 York St

MAY 17 2018

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

Too many liquor stores
Already. Less Gar Bage
in our yards.

Item ZON2018-00072 Date 5/16/18

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

(Circle One)
RECEIVED Print Name PAUL MOYER
COMMUNITY DEVELOPMENT Signature [Signature]
Address 2216 E. 14 St.

MAY 16 2018

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

Item ZON2018-00072 Date 5/11/18

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

(Circle One)
RECEIVED Print Name THOMAS DUGLEY
COMMUNITY DEVELOPMENT Signature [Signature]

MAY 16 2018 Address 2114 YORK ST

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

ZON2018-00072

Item

Date

5/14/2018

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

(Circle One)
RECEIVED

COMMUNITY DEVELOPMENT

Print Name

SANDRA J. ADAMS

Signature

Sandra J. Adams

Address

2320 York St

MAY 17 2018

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

While it would be nice to have a store that would sell some groceries, I do not favor or support a liquor store in the neighborhood. There would be okay, but not a store like what's at E. 14th & Cleveland -

ZON2018-00072

Item

Date

5/11/18

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

(Circle One)

RECEIVED

COMMUNITY DEVELOPMENT

Print Name

Tim Shanahan
Hawthorn Hill

Signature

Tim Shanahan

Address

2110 E 14th St

MAY 16 2018

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

There is no need to have another establishment in the neighborhood selling liquor. Concerns about loitering and individuals coming to the business and causing problems in the neighborhood.

Item ZON2018-00072

Date

5-15-2018

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name

Susan Waddle

Signature

Susan Waddle

MAY 17 2018

Address

2213 E 14th

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

Businesses here that want to have and in the
always low (including) because value of homes,
I'm thinking that started an improvement, lets
continue it. Check 2 weeks about just your people
Ding the lot was moved 1st week. It would destroy
the history + vintage homes that remain. + + + +

Item ZON2018-00072 Date 5-14-18

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

(Circle One)
RECEIVED Print Name Donna Ludlow
COMMUNITY DEVELOPMENT Signature Donna Ludlow
MAY 18 2018 Address 2206 E 14th St.

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

I do not to live next door to the place. With all the coming + going.

Item ZON2018-00072 Date 5-10-18

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

(Circle One)
RECEIVED Print Name GAIL LAWE
COMMUNITY DEVELOPMENT Signature Gail Lane
MAY 16 2018 Address 2201 York St

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

Many of my neighbors including myself have paid thousands of dollars to improve our homes to be facing this. There are enough horrible businesses like this in our area. Stay away from us

Item ZON2018-00072

Date May 10, 2018

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

UNION PARK NEIGHBORHOOD ASSOCIATION

(Circle One)
RECEIVED Print Name Paul Sadler UPNA Secretary
COMMUNITY DEVELOPMENT Signature Paul Sadler
Address 740 Cherokee / P.O. Box 16113

MAY 17 2018

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

Union Park Neighbor hood Association voted unanimously to NOT support the signage request at 2216 E 14th St. Amenity place is not wanted or needed by the residents and is not consistent with the character of a residential neighborhood.

Item ZON2018-00072

Date 05/10/2018

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

(Circle One)
RECEIVED

Print Name Donna L. Barnes-Hicks

COMMUNITY DEVELOPMENT

Signature Donna L. Barnes-Hicks

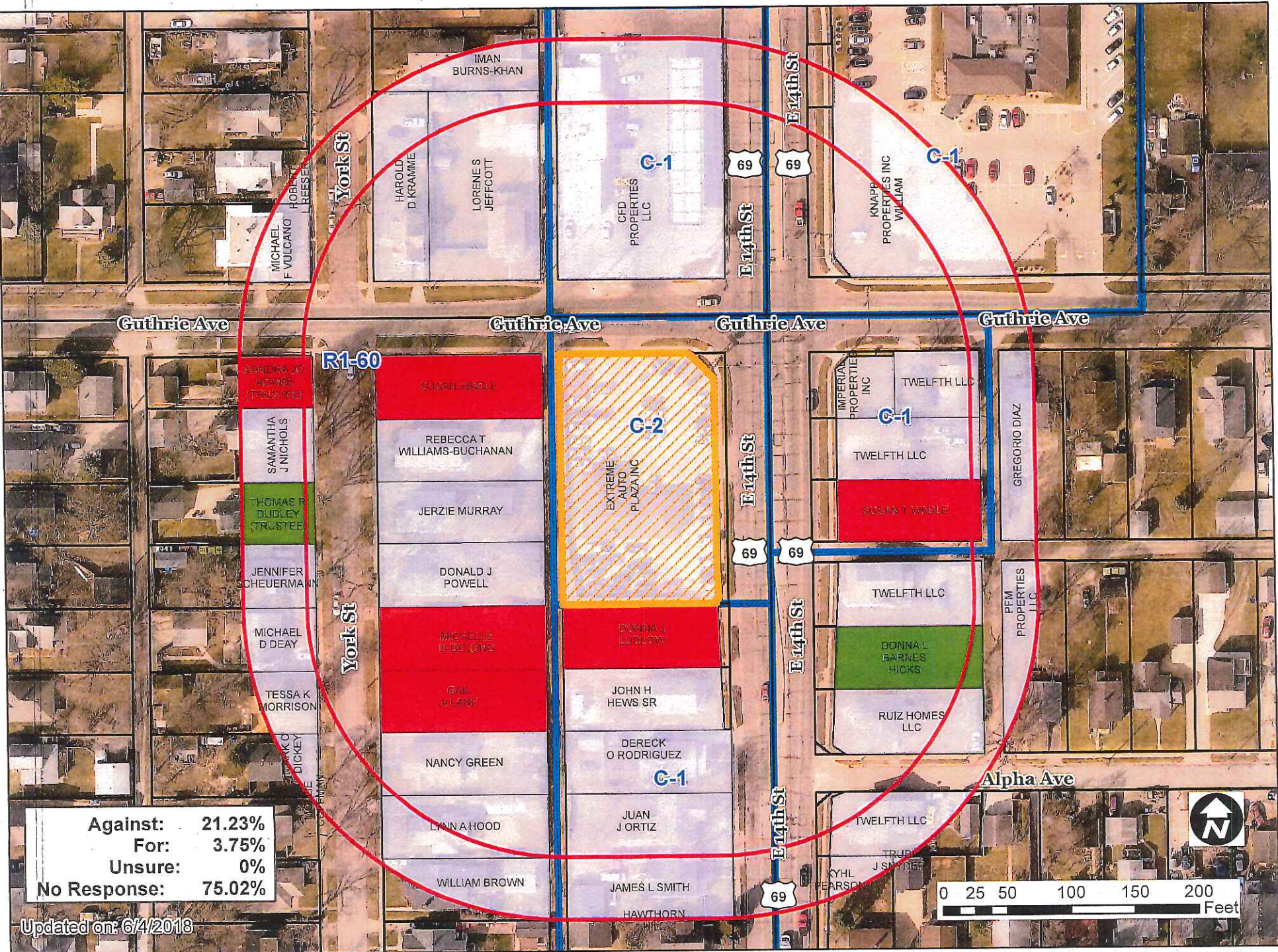
MAY 29 2018

Address 2207 E. 14th St

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

The address for the property I had was 2207 E 14th

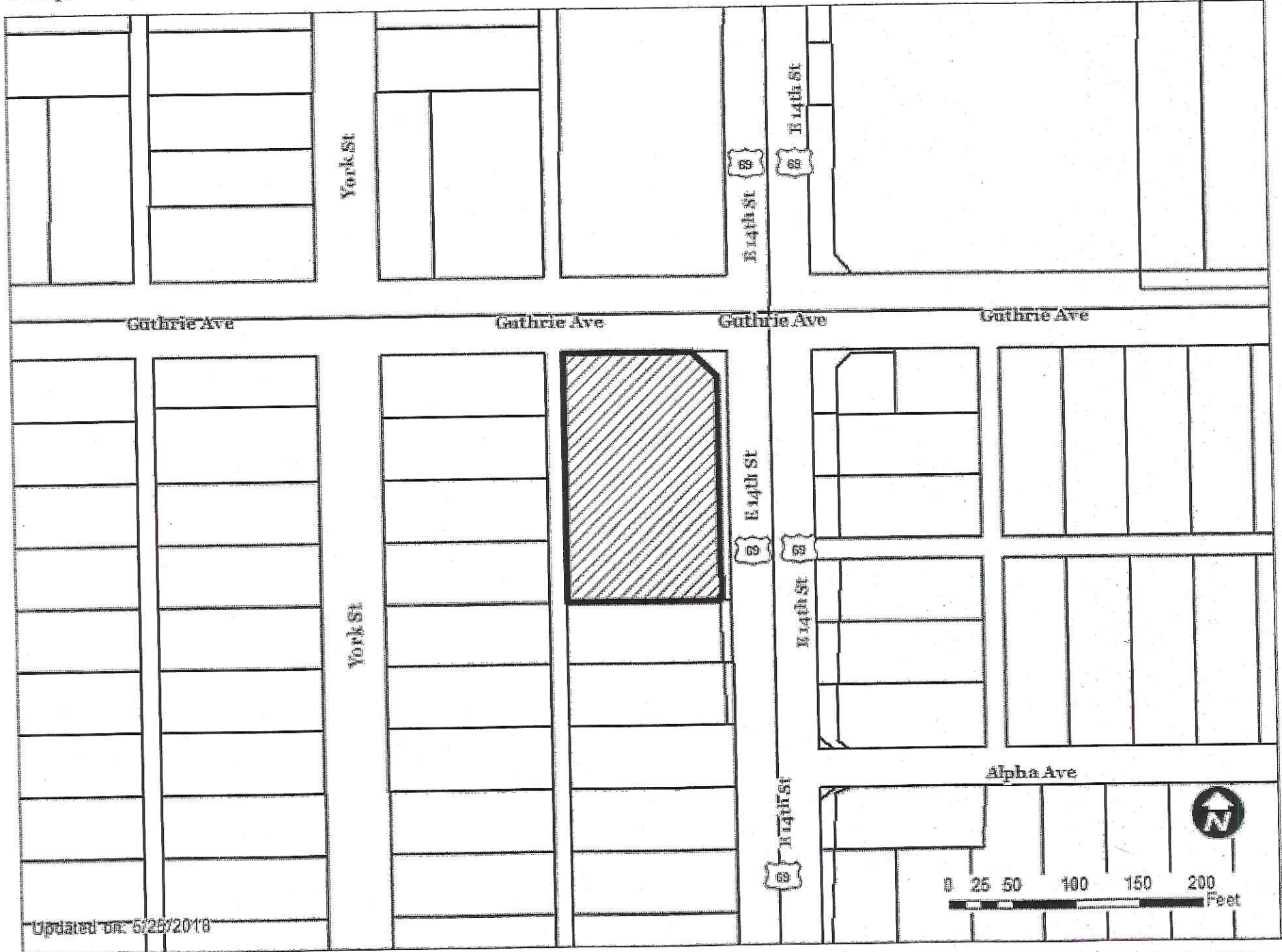
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Against:	21.23%
For:	3.75%
Unsure:	0%
No Response:	75.02%

Updated on: 6/4/2018

410A



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