



Date August 20, 2018

**RESOLUTION HOLDING HEARING ON REQUEST FROM
NJC PROPERTIES, LLC TO REZONE 2525 MCKINLEY AVENUE**

WHEREAS, on August 6, 2018, by Roll Call No. 18-1333, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on July 19, 2018, its members voted 7-5 in support of a motion to recommend **DENIAL** of a request from NJC Properties, LLC (owner), represented by Noel Chladek (officer), to rezone property at 2525 McKinley Avenue (“Property”) from “M-3” Limited Industrial District to “C-2” General Retail and Highway-Oriented Commercial District, to allow single-family residential development of the property; and

WHEREAS, on August 6, 2018, by Roll Call No. 18-1333, it was duly resolved by the City Council that the application of NJC Properties, LLC to rezone the Property, legally described as follows, be set down for hearing on August 20, 2018 at 5:00 p.m. in the Council Chamber at the Council Chambers:

The South ½ of the Southeast ¼ of the Southwest ¼ of the Southwest Quarter, Section 20, Township 78, Range 24, except the west 25’ and the south 33’ thereof, and except the east 529’ thereof, included in 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 rezoning; 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.

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 statements of interested persons and arguments of counsel, any and all comments for and against the proposed rezoning of the Property to “C-2” General Retail and Highway-Oriented Commercial District, to allow single-family residential development on the Property, are hereby received and filed, and the hearing is closed.

Alternative A

MOVED by _____ to adopt and **DENY** the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning:

- a. The City Plan and Zoning Commission voted 7-5 to recommend denial of the requested rezoning of the Property to “C-2” General Retail and Highway-Oriented Commercial District, to allow single-family residential development on the Property.
- b. The PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Business Park, which is not in conformance with the proposed Community Mixed Use use of the Property as stated above.
- c. The proposed rezoning could introduce residential dwellings into an area that is intended to be a business park-like setting along the Des Moines International Airport campus.
- d. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.



Roll Call Number

Agenda Item Number

50B

Date August 20, 2018

Alternative B

MOVED by _____ to continue the public hearing until September 10, 2018, at 5:00 p.m. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and to direct the City Manager and Legal Department to prepare the necessary legislation to **APPROVE** the rezoning subject to conditions acceptable to the City and the owner(s).

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2018-00115)

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

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



Date August 20, 2018

Agenda Item 50B

Roll Call # _____

July 31, 2018

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their July 19, 2018 meeting, the following action was taken regarding a request from NJC Properties, LLC (owner), represented by Noel Chladek (officer) to rezone property located at 2525 McKinley Avenue from from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow single-family residential development of the property. The applicant is requesting a commercial district to maintain flexibility for mixed-use.

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 proposed rezoning be found **not in conformance** with PlanDSM: Creating Our Tomorrow Plan, Part B) **Denial** of the requested amendment to

the existing PlanDSM Creating Our Tomorrow future land use designation from Business Park to Community Mixed Use and Part C) **Denial** of rezoning the property from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District.

(21-2018-4.11) & (ZON2018-00115)

Written Responses

0 in Favor

5 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 Business Park to Community Mixed Use.

Part C) Staff recommends denial of the request to rezone the property from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such a Use Variance would not require an amendment to the PlanDSM Creating Our Tomorrow future land use plan.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed rezoning would allow for the property to potentially be developed for a residential use, which is not permitted in the "M-3" Limited Industrial District. The conceptual sketch submitted with the rezoning application demonstrates that the parcel may be divided as six (6) lots for single-family residential development, with each lot having frontage along Southwest 26th Street. The applicant is requesting a "C" Commercial District rather than an "R" Residential District to maintain future flexibility for permitted uses on the site.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such a Use Variance would not require an amendment to the PlanDSM Creating Our Tomorrow future land use plan.

- 2. Size of Site:** 105 feet by 297 feet (31, 269 square feet or 0.72 acre).
- 3. Existing Zoning (site):** "M-3" Limited Industrial District & "FSO" Freestanding Sign Overlay District.
- 4. Existing Land Use (site):** Undeveloped land.

5. Adjacent Land Use and Zoning:

North – “R1-60”, Use is single-family residential.

South - “M-3”, Uses are McKinley Avenue and the Des Moines International Airport.

East – “M-3”, Use is a business with a mix of office and light manufacturing uses (Biomechanical Composites).

West – “M-3”, Uses are Southwest 26th Street and an auto repair business.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of McKinley Avenue to the west of the Fleur Drive commercial corridor. This segment of McKinley Avenue contains a mix of commercial and light industrial use across from the Des Moines International Airport. A low-density residential area is adjacent to the north.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Southwestern Hills Neighborhood. The neighborhood was notified of the public hearing held on June 29, 2018 by mailing of the Preliminary Agenda. Additionally, separate notifications of the hearing for this specific item were mailed on June 29, 2018 (20 days prior to the July 19, 2018 hearing) and July 9, 2018 (10 days prior to the July 19, 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 July 19, 2018 hearing was mailed to the neighborhood on July 13, 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 Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.

The applicant is required to hold a neighborhood meeting prior to the Plan & Zoning Commission hearing. They will be available to provide a summary of this meeting at the public hearing.

8. **Relevant Zoning History:** None.

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. **PlanDSM Creating Our Tomorrow:** The future land use designation for the property is currently Business Park, which is defined as areas that “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.”

The proposed rezoning to “C-2” District would require an amendment to the Community Mixed Use designation. This designation accommodates “small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.”

The proposed Community Mixed Use designation would be surrounded by remaining Business Park designation on three sides (east, south, and west). Staff does not believe that it would be appropriate to revise the designation for this property since it could introduce residential dwellings into an area that is intended to be a business park-like setting along the Des Moines International Airport campus.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such a Use Variance would not require an amendment to the PlanDSM Creating Our Tomorrow future land use plan.

2. **Permit & Development Center Requirements:** Should the rezoning be granted, any future reconfiguration of the parcel must be in accordance with a plat as reviewed and approved by the City’s Permit and Development Center, and recorded with Polk County. Furthermore, any future development of the site must conform with all of 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.

CHAIRPERSON OPENED THE PUBLIC HEARING

Kristin Hays 2525 McKinley Ave, for the applicant stated after talking to residents around the area, they have decided to go with single-family homes. They did have plans to develop a storage lot but that would have people coming in and out of the property at all hours of the day.

Jacqueline Easley asked if they held a meeting with the neighborhood.

Kristin Hays stated yes.

George Davis 3124 SW 29th president of Southwestern Hills Neighborhood Association, stated they are concerned about the housing being developed with no garages. People around the area want to maintain and increase their property values.

David Courard-Hauri asked if Mr. Davis was aware the property is zoned M-3.

George Davis stated yes and they do understand the applicant could build storage units with the way its zoned right now.

John Jack Hilmes asked if Mr. Davis was here on behalf of the neighborhood association?

George Davis stated yes, they did meet and the biggest concern was the garages being included in the development.

Sandy Williams 2515 Herold Ave, stated she bought her house because there were no houses behind her. She is concerned about the safety and presentation of their neighborhood.

George Davis stated they aren't against the development of housing, just want more information regarding the type of housing that would be built.

Timothy Lennard 2518 Herold Ave, stated if they are going to build residential, they need to build something that is going to sell.

Kristin Hays stated she knows plans have been drawn up with a garage and it shouldn't be a problem to include garages in the development.

Michael Ludwig recommended continuation to allow the applicant to discuss possible conditions on design with staff for the P&Z to consider.

Kristin Hays stated she is ok with a continuation.

John Jack Hilmes asked what residential properties can be built in an M-3 district.

Erik Lundy stated none.

John Jack Hilmes stated with the staff's recommendation of denial, no residential properties can be built so a continuance might be a good idea.

CHAIRPERSON CLOSED THE PUBLIC HEARING

David Courard-Hauri stated he would move staff recommendation for denial of the rezoning.

Jann Freed stated they need to stay focused on if this lot should be rezoned so they can build houses.

Mike Simonson asked if the City Council denies the current zoning application, can the applicant immediately come back with an amended zoning request.

Michael Ludwig stated the process would need to play out. If they are denied by Council, they could submit a new request for rezoning immediately provided it was not the same request.

Jacqueline Easley asked if they were to deny, what's the time frame they have after Council's decision.

Michael Ludwig stated they can apply for an amended zoning request immediately after denial by Council. It then would be a new application with a 30-day review period and public hearing in front of the commission.

John Jack Hilmes asked if they want it to be a clear zone for the airport.

Erik Lundy stated they don't want to give up too much land designated for industrial needs for commercial / industrial uses around the airport.

Mike Simonson stated the applicant isn't present and if we give them 2 more weeks, they might get what they're after.

COMMISSION ACTION:

Part A) David Courard-Hauri made a motion to find the requested rezoning not in conformance with PlanDSM: Creating Our Tomorrow Plan.

Motion approved 12-0.

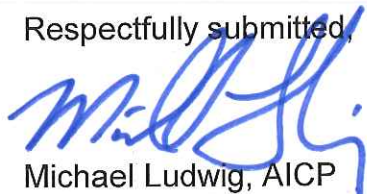
Part B) David Courard-Hauri made a motion to deny the request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Business Park to Community Mixed Use.

Motion approved 7-5.

Part C) David Courard-Hauri made a motion to deny the request to rezone the property from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District.

Motion approved 7-5.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh

NJC Properties, LLC (owner), represented by Noel Chladek (officer) for property located at 2525 McKinley Avenue.				File #	
				21-2018-4.11	
Description of Action	Amend the existing PlanDSM Creating Our Tomorrow future land use designation from Business Park to Community Mixed Use.				
PlanDSM Future Land Use	Current: Business Park. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"M-3" Limited Industrial District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	0	5			
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	X		No	

NJC Properties, LLC, 2525 McKinley Avenue

21-2018-4.11



Updated on: 6/29/2018

1 inch = 117 feet

NJC Properties, LLC (owner), represented by Noel Chladek (officer) for property located at 2525 McKinley Avenue.		File #			
		ZON2018-00115			
Description of Action	Rezone the property from "M-3" Limited Industrial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow single-family residential development of the property. The applicant is requesting a commercial district to maintain flexibility for mixed-use.				
PlanDSM Future Land Use	Current: Business Park. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"M-3" Limited Industrial District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property Outside Area (200 feet)	0	5			
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	X		No	

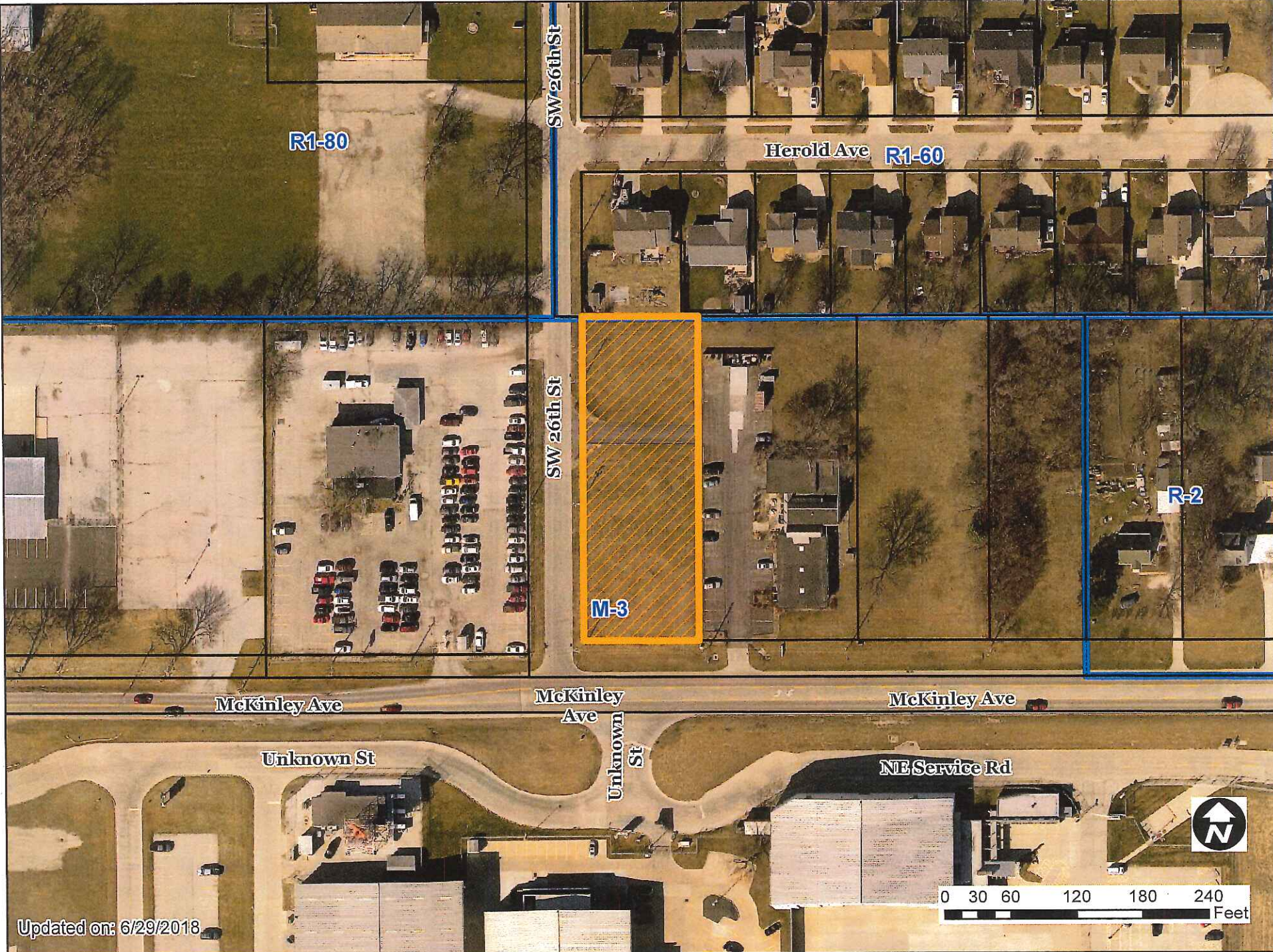
NJC Properties, LLC, 2525 McKinley Avenue

ZON2018-00115

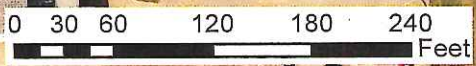


Updated on: 6/29/2018

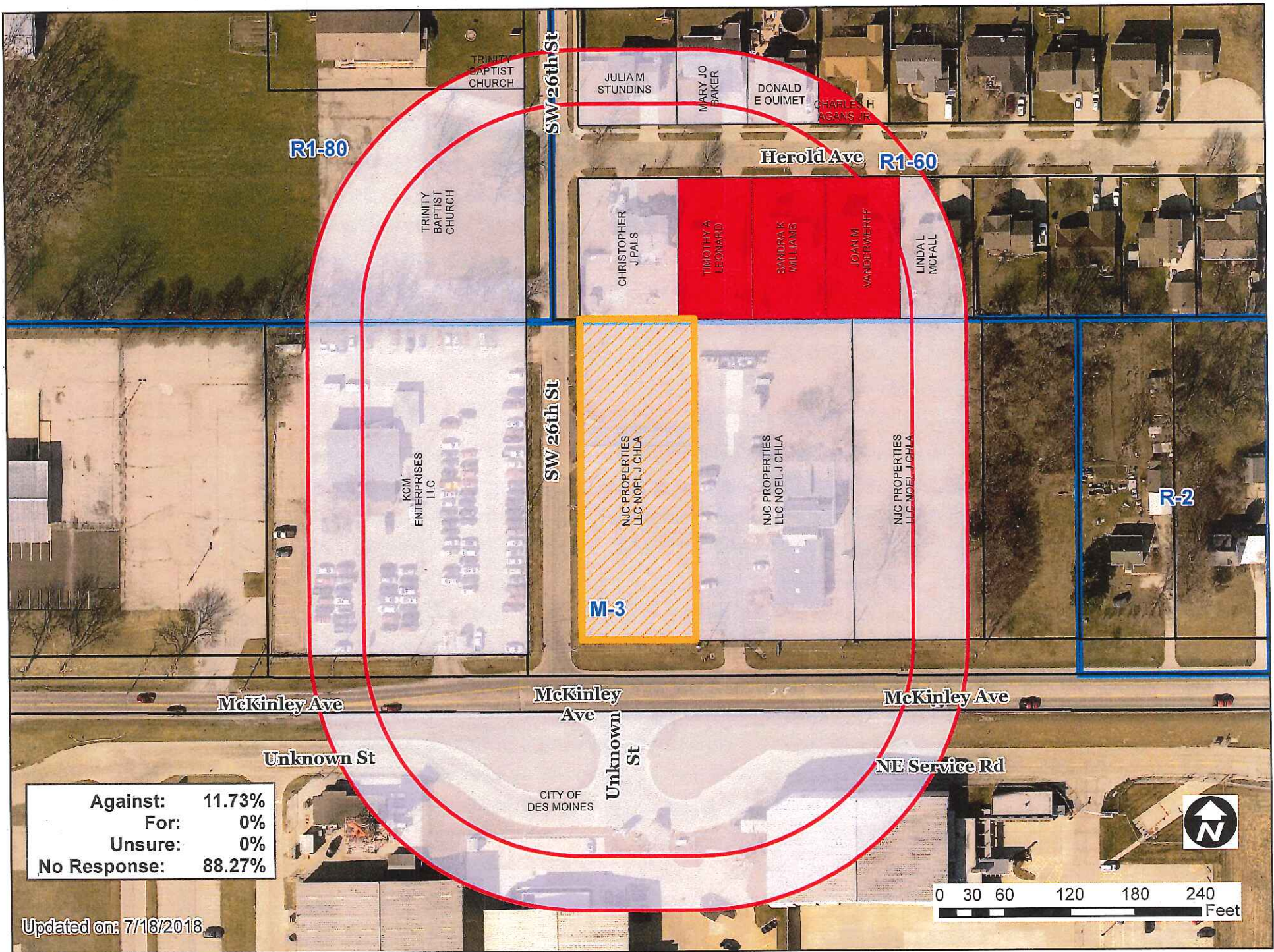
1 inch = 117 feet



Updated on: 6/29/2018



50B



Against:	11.73%
For:	0%
Unsure:	0%
No Response:	88.27%

Updated on: 7/18/2018

50B

Item ZON2018-00115 Date 1/13/18

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
Print Name Timothy A Leonard
Signature Timothy A Leonard
Address 2518 Herold Ave. DM, IA 50321
JUL 17 2018

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

- ① Zoning Request allows for commercial development that I oppose.
- ② His proposal for townhomes do not include garages. w/o garages, parking on 2th street would occur and cause concerns w/traffic. I suggest he include garages in his design and I also suggest zoning before residential development only.

Item ZON2018-00115 Date 7-13-18

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
Print Name Sandy Williams
Signature Sandra K Williams
Address 2512 Herold Ave
JUL 17 2018

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

Loss of property value.
Security - I purchased my house over 20 years ago because no one could build behind me. Any options for building on these lots would not be accepted in my view.

50B

Item ZON2018-00115

Date 7-11-18

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

RECEIVED
COMMUNITY DEVELOPMENT
Print Name MARY A. AGANS

JUL 16 2018

Signature Mary A. Agans

Address 2507 Herold

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

ZON2018-00115 Date 7-14-18 50B
SOUTHWESTERN HILLS NEIGHBORHOOD ASSOCIATION

(am) (am not) in favor of the request.
(Circle One)
Print Name George DAVIS
Signature [Signature]
Address 3124 SW 29th

RECEIVED
COMMUNITY DEVELOPMENT
JUL 20 2018

Reason for opposing or approving this request may be listed below.
SW Hills Neighborhood members have concerns regarding no garages.

ZON2018-00115 Date 7/12/18
(am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
JUL 17 2018
Print Name JOAN VANDER WERFF
Signature Joan Vander Werff
Address 2506 Herald ave SW 50321

Reason for opposing or approving this request may be listed below.
Very uncomfortable with C-2 zoning w/ flexibility
have seen floor plans of proposed townhomes - will be a
~~hard~~ hard sell. He said if they sell well then
he would duplicate them on other two lots (M-3) now
He also reminded us that he could still build storage
units on all of the three lots - which he tried
to do a year ago. We have many concerns to discuss
at the meeting