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**Date** January 28, 2019

**RESOLUTION HOLDING HEARING ON REQUEST FROM  
CITYVIEW 34, LLC TO REZONE PROPERTY LOCATED AT 938 12<sup>TH</sup> STREET**

**WHEREAS**, on January 14, 2019, by Roll Call No. 19-0039, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on December 20, 2018, its members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from Cityview 34, LLC, successor in interest to NJREC, Inc. (owner), represented by Nick Jensen (officer), to rezone property in located at 938 12th Street (“Property”) from “M-1” Light Industrial District to Limited “NPC” Neighborhood Pedestrian Commercial District, to allow redevelopment of the Property with 14 row townhome dwellings, subject to the following conditions:

1. All units that front 12<sup>th</sup> Street shall have an entry presence to the satisfaction of the Planning Administrator. This may consist of a second set of steps to a front porch, a corner entrance or other comparable technique.
2. Review and approval of the finalized building elevations and materials by the Planning Administrator.
3. Any development shall be in accordance with a Site Plan under the Design Guidelines applicable to the “NPC” District.
4. The following uses shall be prohibited on the property:
  - a. Taverns and nightclubs;
  - b. Billiard parlors/game rooms;
  - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores; and

**WHEREAS**, on January 14, 2019, by Roll Call No. 19-0039, it was duly resolved by the City Council that the application of Cityview 34, LLC, successor in interest to NJREC, Inc., to rezone the Property, as legally described below, be set down for hearing on January 28, 2019 at 5:00 p.m. in the Council Chambers at City Hall; 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 938 12<sup>th</sup> Street, legally described as:

LOT 3 IN BLOCK 7 IN GRASS ROOTS 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

ALL OF THE 24.0 FOOT WIDE 12<sup>TH</sup> PLACE RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOT 1, LOT 3 AND LOT 4, BLOCK 7, GRASS ROOTS 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, ALSO KNOWN AS LOT N, BLOCK 7, GRASS ROOTS 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE



Date January 28, 2019

CITY OF DES MOINES, POLK COUNTY, IOWA, SUBJECT TO EASEMENTS, COVENANTS, AND RESTRICTIONS OF RECORD

from "M-1" Light Industrial District to Limited "NPC" Neighborhood Pedestrian Commercial District, redevelopment of the Property with 14 row townhome dwellings, 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 "NPC" Neighborhood Pedestrian Commercial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "NPC" Neighborhood Pedestrian 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

(ZON2018-00244)

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 labels.

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





January 8, 2019

Date January 28, 2019

Agenda Item 44

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 December 20, 2018 meeting, the following action was taken regarding a request from NJREC, Inc. (owner) represented by Nick Jensen (officer) to rezone property located at 938 12<sup>th</sup> Street from "M-1" Light Industrial District to "NPC" Neighborhood Pedestrian Commercial District, to allow the property to be redeveloped with 14 row townhome dwellings.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	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 in conformance with the existing PlanDSM future land use plan designation of Downtown Mixed Use and **APPROVAL** of Part B) to recommend that the property be rezoned to "NPC" Neighborhood Pedestrian Commercial District, subject to the following conditions:

1. All units that front 12<sup>th</sup> Street shall have an entry presence to the satisfaction of the Planning Administrator. This may consist of a second set of steps to a front porch, a corner entrance or other comparable technique.
2. Review and approval of the finalized building elevations and materials by the Planning Administrator.
3. Any development shall be in accordance with a Site Plan under the Design Guidelines applicable to the “NPC” District.
4. The following uses shall be prohibited on the property:
  - a. Taverns and nightclubs;
  - b. Billiard parlors/game rooms;
  - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores.

(ZON2018-00244)

Written Responses

0 in Favor

0 in Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing PlanDSM future land use plan designation of Downtown Mixed Use.

Part B) Staff recommends approval of rezoning to “NPC” Neighborhood Pedestrian Commercial District, subject to the following conditions:

1. All units that front 12<sup>th</sup> Street shall have an entry presence to the satisfaction of the Planning Administrator. This may consist of a second set of steps to a front porch, a corner entrance or other comparable technique.
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## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone the subject property to allow redevelopment for 14 row townhomes. The subject property includes a portion of 12<sup>th</sup> Place that was previously vacated at an unknown date.
2. **Size of Site:** 29,594 square feet or 0.679 acres.
3. **Existing Zoning (site):** "R-3" Multiple Family Residential District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay.
4. **Existing Land Use (site):** Vacant.
5. **Adjacent Land Use and Zoning:**
  - North** – "M-1": Uses are the Interstate 235 corridor and an office building.
  - South** - "M-1": Uses are commercial.
  - East** - "R-4": Uses are single- and multiple-family residential.
  - West** - "R-3": Use is vacant land currently under development for multiple-family residential.
6. **General Neighborhood/Area Land Uses:** The site is located at the northern periphery of downtown. The immediate area consists of a mix of commercial and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located in or within 250 feet of a recognized neighborhood association. All neighborhood associations were notified of the Commission meeting by mailing of the Preliminary Agenda on November 30, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on November 30, 2018 (20 days prior to the hearing) and December 10, 2018 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. A Final Agenda for the meetings were mailed to all the recognized neighborhood associations on December 14, 2018.
8. **Relevant Zoning History:** None.



9. **PlanDSM Creating Our Tomorrow Future Land Use Plan Designation: Downtown Mixed Use.**

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 Plan:** The proposed rezoning to the “NPC” Neighborhood Pedestrian Commercial District is compatible with the Downtown Mixed Use future land use designation. The Plan defines this designation as “Allows mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.” The proposed 14 dwelling units on a 29,594 square feet (0.679 acres) site represents a net density of 20.6 units per acre.

2. **Urban Design:** The proposed rowhouses would be 3-stories tall and arranged in groups of 7 units. The ground floor of the units on the north side of the property would be partially below grade, giving the units a 2½-story appearance from certain views. The proposed rowhouses would have masonry and cement fiberboard siding. The ground level of each unit would contain garage space. The units would have a parapet style roof.

The development would have frontage on 12<sup>th</sup> Street. Only two (2) of the proposed 14 units would front the street. Street side doors are not proposed for these units. Staff believes that entrances or entrance features to both units fronting 12<sup>th</sup> Street should be provided that face the street.

3. **Parking & Access:** The ground level of each unit would contain garage space. These garages would be accessed from a service drive. Parking is currently allowed along both sides of 12<sup>th</sup> Street.

4. **Site Composition:** Staff notes that the subject property was acquired by the developer at a later date than adjacent land to the west, 1331 Keosauqua Way. The property at 1331 Keosauqua Way is currently under development and would consist of 35 townhomes. The proposed townhomes for the subject property would be of similar design and style as those approved for 1331 Keosauqua Way. Staff recommends that the entire development be either combined into one parcel or that cross-access easements be developed.

## SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None requested to speak.

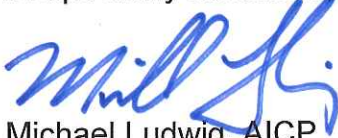
## COMMISSION ACTION:

Will page made a motion for **APPROVAL** of Part A) the proposed rezoning be found in conformance with the existing PlanDSM future land use plan designation of Downtown Mixed Use and **APPROVAL** of Part B) to recommend that the property be rezoned to "NPC" Neighborhood Pedestrian Commercial District, subject to the following conditions:

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  - e. Pawn brokers;
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  - g. Off premises advertising signs; and,
  - h. Liquor stores.

Motion Carried 8-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh



NJREC, Inc. (owner) represented by Nick Jensen (officer) for property located at 938 12th Street.		File # ZON2018-00244		
<b>Description of Action</b>	Rezone from "M-1" Light Industrial District to "NPC" Neighborhood Pedestrian Commercial District, to allow the property to be redeveloped with 14 row townhome dwellings.			
<b>PlanDSM Future Land Use</b>	Current: Downtown Mixed Use. Proposed: N/A.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	"NPC" Neighborhood Pedestrian Commercial and "FSO" Freestanding Signs Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
<b>Subject Property</b>	0	0		
<b>Outside Area (200 feet)</b>				
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

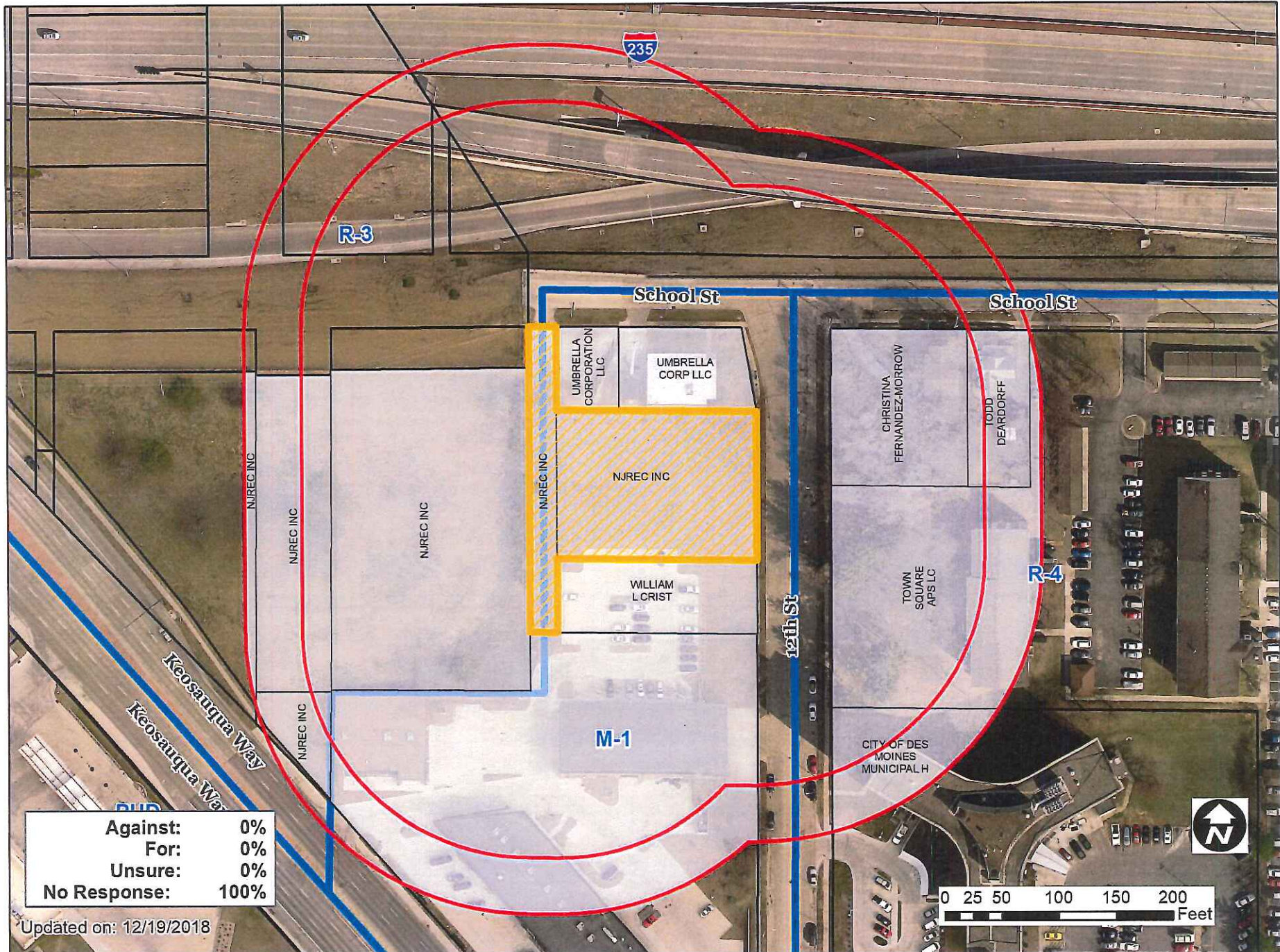
NJREC, Inc., 938 12th Street

ZON2018-00244



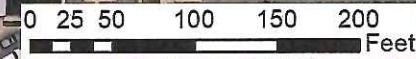
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Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 12/19/2018



1 inch = 113 feet

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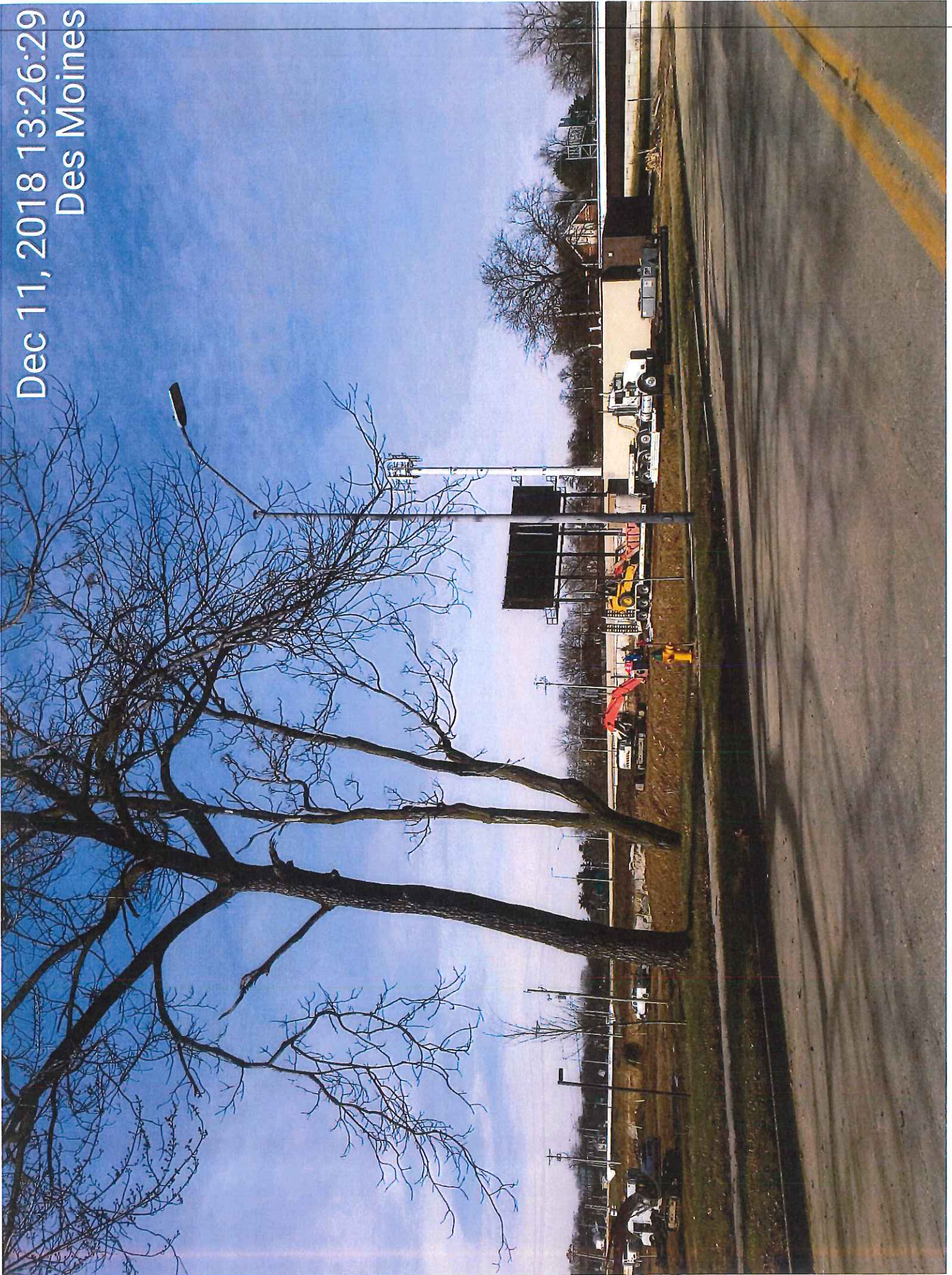
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Des Moines



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Des Moines





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938 12th Street





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938 12th Street





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Des Moines



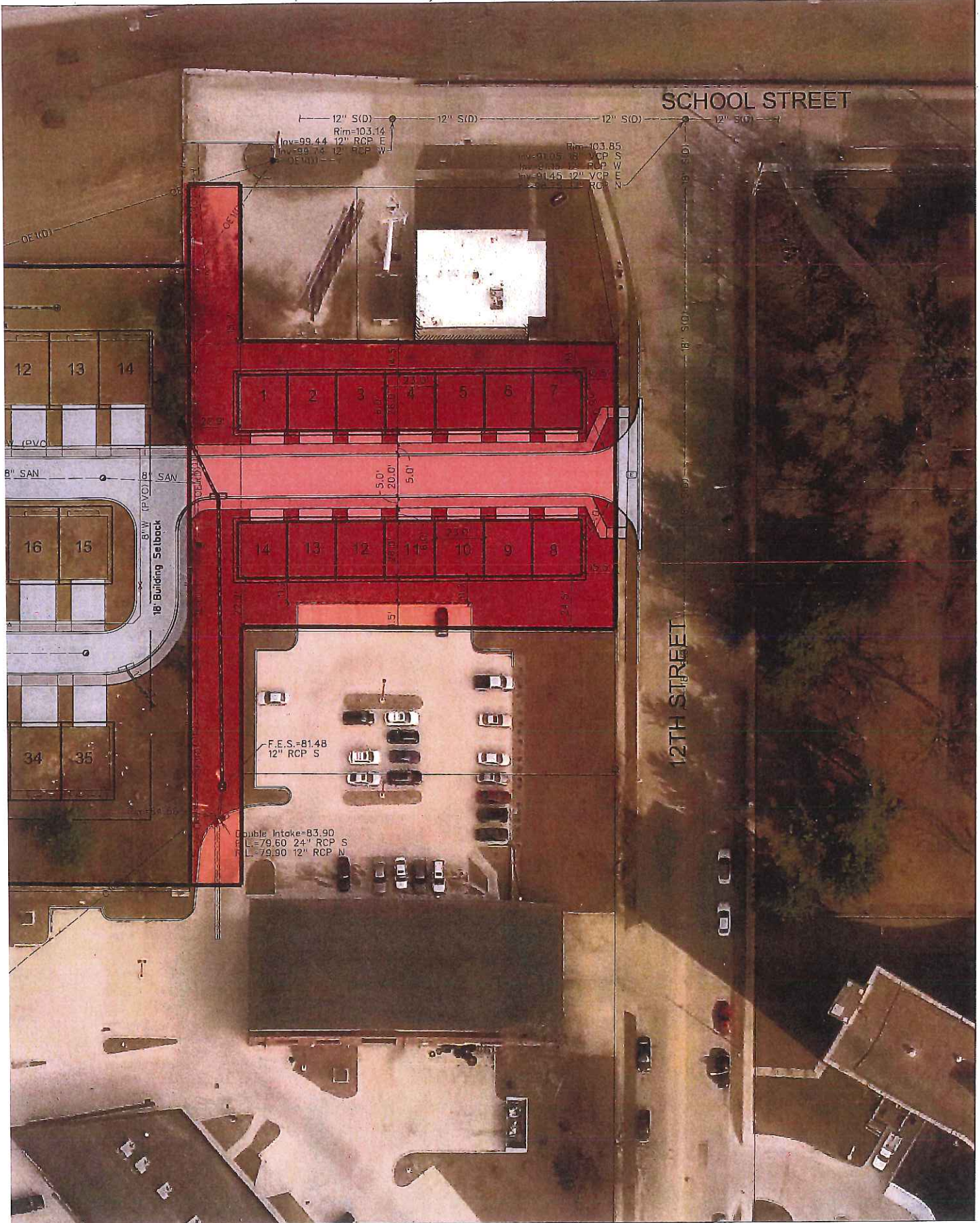


DRIVER  
ers receive  
WEEKLY BONUSES  
SS.com

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1212 School Street







# Rezoning Exhibit