



Date May 6, 2019

RESOLUTION HOLDING HEARING ON REQUEST FROM DES MOINES HERITAGE TRUST TO REZONE PROPERTY LOCATED AT 120 EAST 5TH STREET

WHEREAS, on April 22, 2019, by Roll Call No. 19-0633, the City Council received a recommendation from the City Plan and Zoning Commission advising that at a public hearing held on April 4, 2019, its members voted 11-1 in support of a motion to recommend **APPROVAL** of a request from Des Moines Heritage Trust (owner), represented by Timothy Waddell (officer), to rezone property in located at 120 East 5th Street (“Property”) from “M-1” Light Industrial District to Limited “C-3B” Central Business Mixed Use District, to allow renovation of the existing former railroad depot and warehouse building for a museum and redevelopment of the Property for an event space building, subject to the following conditions:

1. The following uses shall be prohibited:
 - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - b. Auction businesses.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - d. Lumbryards, retail and wholesale.
 - e. Machine shops.
 - f. Freestanding package goods stores for the sale of alcoholic beverages.
 - g. Pawnshops.
 - h. Printing, publishing houses and lithographing shops.
 - i. Plumbing and heating shops.
 - j. Miniwarehouse uses.
 - k. Freestanding taverns and night clubs.
 - l. Warehousing; and

WHEREAS, on April 22, 2019, by Roll Call No. 19-0633, it was duly resolved by the City Council that the application of Des Moines Heritage Trust to rezone the Property, as legally described below, be set down for hearing on May 6, 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 120 East 5th Street, legally described as:

PARCEL 2017-207 OF THE PLAT OF SURVEY FILED IN THE OFFICE OF THE RECORDER, POLK COUNTY, IOWA, IN BOOK 16761, PAGE 652, ALL IN LOTS 7,8,15, AND 16 AND THE ADJOINING VACATED NORTH/SOUTH ALLEY, ALL IN BLOCK 16, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 7; THENCE SOUTH 15°04’38” EAST, 89.62 FEET; THENCE

Date April 22, 2019

SOUTH 75°01'22" WEST, 158.62 FEET; THENCE NORTH 15°23'48" WEST, 10.03 FEET; THENCE SOUTH 74°57'09" WEST, 50.20 FEET; THENCE NORTH 14°56'35" WEST, 79.30 FEET; THENCE NORTH 74°55'34" EAST, 208.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.42 ACRES MORE OR LESS AND SUBJECT TO EASEMENTS, AGREEMENTS, AND LICENSES OF RECORD

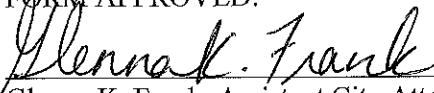
from "M-1" Light Industrial District to Limited "C-3B" Central Business Mixed Use District, to allow renovation of the existing former railroad depot and warehouse building for a museum and redevelopment of the Property for an event space building, subject to the conditions stated above as agreed to 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-3B" Central Business Mixed Use District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "C-3B" Central Business Mixed Use 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

(ZON2019-00041)

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



April 16, 2019

Date May 6, 2019
 Agenda Item 43
 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 April 4, 2019 meeting, the following action was taken regarding a request from Des Moines Heritage Trust (owner) represented by Timothy Waddell (officer) to rezone property located at 120 East 5th Street from "M-1" Light Industrial District to "C-3B" Central Business Mixed Use District to allow renovation of the existing former railroad depot and warehouse building for a museum and redevelopment of the property for an event space building.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-1-0 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			
Emily Webb	X			

APPROVAL of Part A) the proposed rezoning to "C-3B" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Downtown

Mixed Use” and Part B) the subject property be rezoned from “M-1” Light Industrial District to “C-3B” Central Business Mixed-Use District, subject to the following conditions:

1. The following uses shall be prohibited:
 - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - b. Auction businesses.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - d. Lumberyards, retail and wholesale.
 - e. Machine shops.
 - f. Freestanding package goods stores for the sale of alcoholic beverages.
 - g. Pawnshops.
 - h. Printing, publishing houses and lithographing shops.
 - i. Plumbing and heating shops.
 - j. Miniwarehouse uses.
 - k. Freestanding taverns and night clubs.
 - l. Warehousing.

(ZON2019-00041)

Written Responses

1 in Favor

0 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “C-3B” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Downtown Mixed Use”.

Part B) Staff recommends the subject property be rezoned from “M-1” Light Industrial District to “C-3B” Central Business Mixed-Use District, subject to the following conditions:

1. The following uses shall be prohibited:
 - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
 - b. Auction businesses.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - d. Lumberyards, retail and wholesale.
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 - f. Freestanding package goods stores for the sale of alcoholic beverages.
 - g. Pawnshops.
 - h. Printing, publishing houses and lithographing shops.
 - i. Plumbing and heating shops.
 - j. Miniwarehouse uses.
 - k. Freestanding taverns and night clubs.
 - l. Warehousing.

2. Any development of the site shall be subject to the undergrounding of all overhead utilities to the maximum extent possible.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning to "C-3B" Central Business Mixed-Use District would allow renovation of the existing former railroad depot and warehouse building for a museum and redevelopment of the property for an event space building. The submitted site sketch demonstrates that the future restoration may include construction of a covered entry on the east façade of the structure that that may necessitate future vacation of a portion of Southeast 5th Street Right-of-Way. The sketch also demonstrates that an additional building may be constructed on the western portion of the property to provide space for events.

If rezoned to a "C-3B" District, any redevelopment or site modifications would require future review and approval of a Site Plan and building elevations by the Plan and Zoning Commission. Such a site plan must be in accordance with the "C-3B" District design guidelines, as well as the design guidelines applicable in the "D-O" Downtown Overlay District. These regulations and design guidelines are intended to assure that redevelopment in the mixed-use areas surrounding the core of Downtown are pedestrian-oriented and compatible with a mixed-use neighborhood.

2. **Size of Site:** 0.42-acre.

3. **Existing Zoning (site):** "M-1" Light Industrial District, "CDO" Capitol Dominance Overlay District, "D-O" Downtown Overlay District, "FSO" Freestanding Sign Overlay District, and "GGP" Gambling Games Prohibition District.

4. **Existing Land Use (site):** The site contains a 2,000-square foot building that was historically used as a train depot.

5. **Adjacent Land Use and Zoning:**

North – "C-3B"; Uses are the Des Moines Police Officer's Credit Union and AJ's on Court (tavern).

South – "M-1"; Uses include an inactive east/west railroad and a parking lot.

East – "M-1"; Uses include Southeast 5th Street and a warehouse.

West – "M-1"; Use is an undeveloped lot.

6. **General Neighborhood/Area Land Uses:** The subject property is located in an area known as the Market District, which is an area transitioning from industrial uses to a mix of commercial and residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on March 15, 2019 and by mailing of the Final Agenda on March 29, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on March 15, 2019 (20 days prior to public hearing) and March 25, 2019 (10 days prior to initial public hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Historic East Village Neighborhood Association notices were mailed to Taylor Frame, PO Box 93904, Des Moines, IA 50393.

The applicant held their neighborhood meeting on March 28, 2019. The applicant can report on their neighborhood meeting at the hearing.

- 8. Relevant Zoning History:** N/A.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The site is designated as Downtown Mixed Use, which 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 "C-3B" District is more consistent with this designation than the "M-1" District.

- 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. Market District of East Village Urban Design Study:** In May 2010, the City Council received and filed the "Market District of East Village Urban Design Study" as a guide for future development and redevelopment within the area bounded by East/Southeast 7th Street on the east, Scott Avenue on the south, the Des Moines River on the west, and East Walnut Street on the north. The study calls for creating a vibrant pedestrian-oriented mixed-use area by preserving the existing structures and building new residential and commercial structures.

- 2. Permitted Uses:** The following is the list of uses permitted in the "C-3B" District:

Sec. 134-1006. Principal permitted uses.

Only the uses of structures or land similar to those that follow shall be permitted in the C-3B Central Business Mixed Use District:

- (1) *Any use permitted in and as limited in the C-2 district except the following uses which are prohibited:*
 - a. *Automobile, trailer, motorcycle, boat, and farm implement establishments for display, rental, and sales (including sales lots).*
 - b. *Mobile home parks.*
 - c. *Vehicle display lots.*
 - d. *Garage for general motor vehicle that includes major body and fender work or overall painting.*
 - e. *Automobile washing establishments unless all bays are normally enclosed and an attendant is on duty during all hours of operation.*
 - f. *Adult entertainment business.*
 - g. *Monument sales yards.*
 - h. *Sheet metal shops.*
 - i. *Sign painting shops.*
 - j. *Off-premises advertising signs.*
- (2) *Assembly and packaging of small components from previously prepared materials within a fully enclosed building.*
- (3) *Manufacture or treatment of products within a fully enclosed building incidental to the conduct of a retail business carried out on the premises.*
- (4) *Printing and publishing houses.*
- (5) *Warehousing.*
- (6) *Machine shops.*
- (7) *Retail lumberyards.*
- (8) *Electrical substations and gas regulator facilities upon land held by the utility for that purpose on the date the land was placed within the C-3B District. Any new electrical substation or gas regulator facility, or expansion thereof, upon land not held by the utility for that purpose when the land was placed within the C-3B District, may be allowed only by special permit under the provisions of section 134-1326.*
- (9) *Combinations of the uses in subsections (1) through (8) of this section.*

Staff recommends that the following uses permitted in the "C-3B" District be prohibited:

- a. *Assembly and packaging of small components from previously prepared materials within a fully enclosed building.*
- b. *Auction businesses.*
- c. *Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.*
- d. *Lumberyards, retail and wholesale.*
- e. *Machine shops.*
- f. *Freestanding package goods stores for the sale of alcoholic beverages.*
- g. *Pawnshops.*
- h. *Printing, publishing houses and lithographing shops.*
- i. *Plumbing and heating shops.*
- j. *Miniwarehouse uses.*
- k. *Freestanding taverns and night clubs.*
- l. *Warehousing.*

3. **Utilities:** There are existing overhead utility lines within Southeast 5th Street right-of-way. Any future development of the site should be subject to the burial of overhead utilities to the maximum extent possible.
4. **"C-3B" District Design Guidelines:** If rezoned to "C-3B" District, any redevelopment would require future approval of a Site Plan and building elevations by the Plan and Zoning Commission. A Site Plan has not been submitted for consideration at this time. Future consideration of a request to vacate a portion of Southeast 5th Street right-of-way may be necessary.
5. **"D-O" Downtown Overlay District Design Guidelines:** The subject property is within the Downtown Overlay District. In acting upon any future site plan application for the site, the Plan and Zoning Commission shall apply the Downtown Overlay District design guidelines. A Site Plan has not been submitted for consideration at this time. Future consideration of a request to vacate a portion of Southeast 5th Street right-of-way may be necessary.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation. Noted that the applicant disagrees with condition #2.

Will Page asked if the language of condition #2 has been used on previous zoning requests and will it be used in the future.

Jason Van Essen stated this would be appropriate language to use on a case by case basis going forward.

Eric Cannon of Snyder and Associates, 2727 SW Snyder Blvd, representing Des Moines Heritage Trust, stated this site is rather hampered by electric lines. With 90 feet of frontage along 5th Street, the applicant would have to underground to the next pole that is 120 feet away. Des Moines Heritage is a Non-Profit organization and the cost associated with undergrounding these utilities was estimated at \$250,000.

David Courard-Hauri asked when the Des Moines Police Credit Union was constructed and why didn't they underground utilities.

Mike Ludwig stated he believes it was over 10 years ago. Would have to research that specific approval to see if any waiver or deferral was granted. Noted that the Des Moines Heritage Trust did receive CDBG funding from the City for acquisition of the depot property.

Will Page stated Des Moines Heritage Trust has done a lot of good for the City and power lines are typical to industrial areas so he would move staff with the deletion of condition #2 of the staff recommendation.

COMMISSION ACTION:

Will page made a motion for approval of Part A) the proposed rezoning to "C-3B" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Downtown Mixed Use" and Part B) the subject property be rezoned from "M-1" Light Industrial District to "C-3B" Central Business Mixed-Use District, subject to the following conditions:

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 - l. Warehousing.

Motion Carried: 11-1-0

Respectfully submitted,

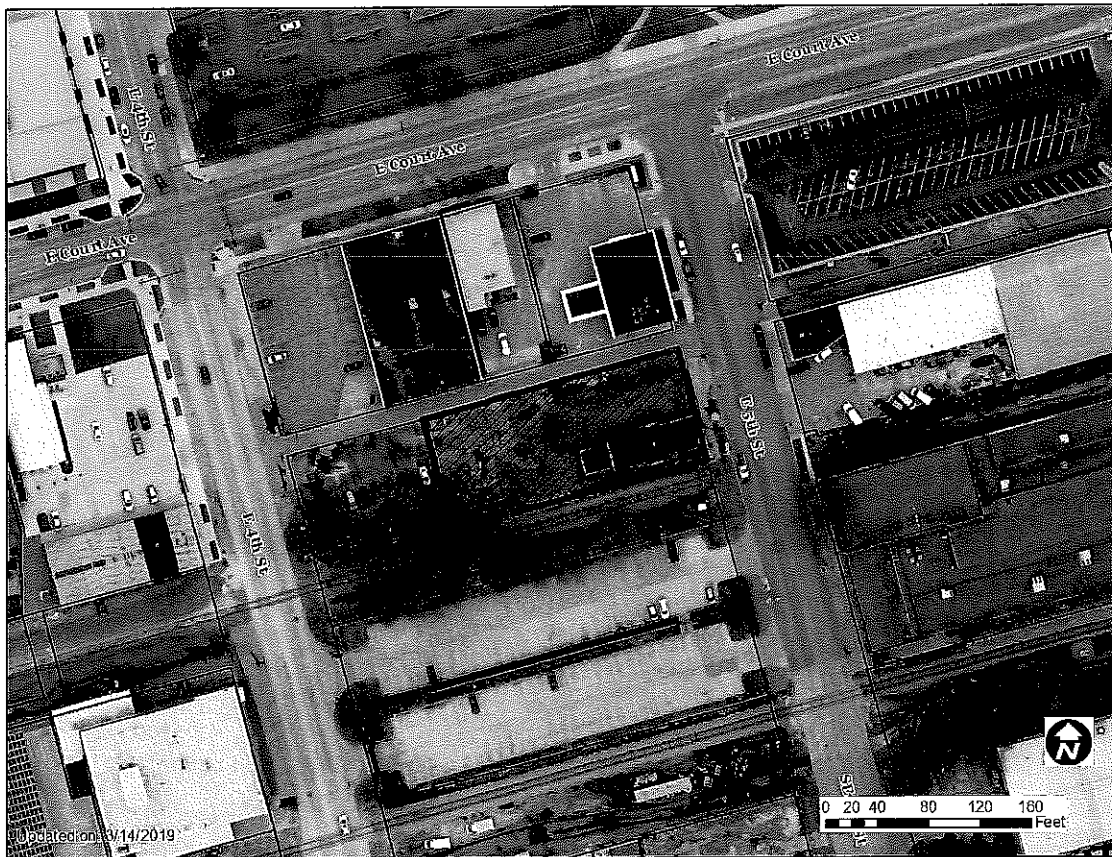

Michael Ludwig, AICP
Planning Administrator

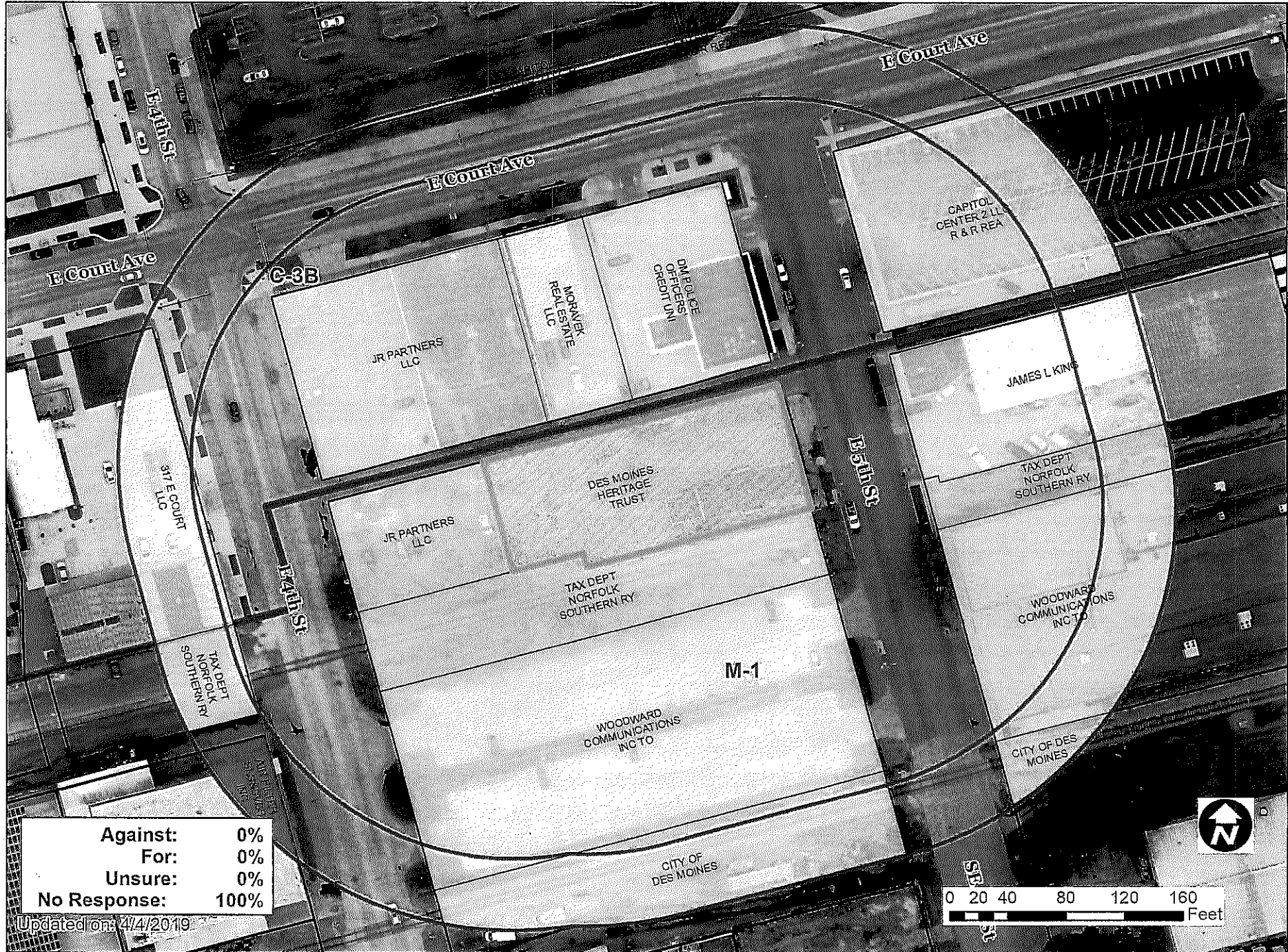
MGL:tjh

Des Moines Heritage Trust (owner) represented by Timothy Waddell (officer) for property located at 120 East 5th Street.		File # ZON2019-00041		
Description of Action	Rezone from "M-1" Light Industrial District to "C-3B" Central Business Mixed Use District to allow renovation of the existing former railroad depot and warehouse building for a museum and redevelopment of the property for an event space building.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-1" Light Industrial District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	"C-3B" Central Business Mixed Use District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay 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

Des Moines Heritage Trust, 120 East 5th Street

ZON2019-00041





IR ZON2019-00041

Date 3/27/2019

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

(Circle One)

Air Filter Sales + Services, Inc.

Print Name Mark A. Klein

RECEIVED
COMMUNITY DEVELOPMENT

Signature Mark A. Klein

APR 1 2019

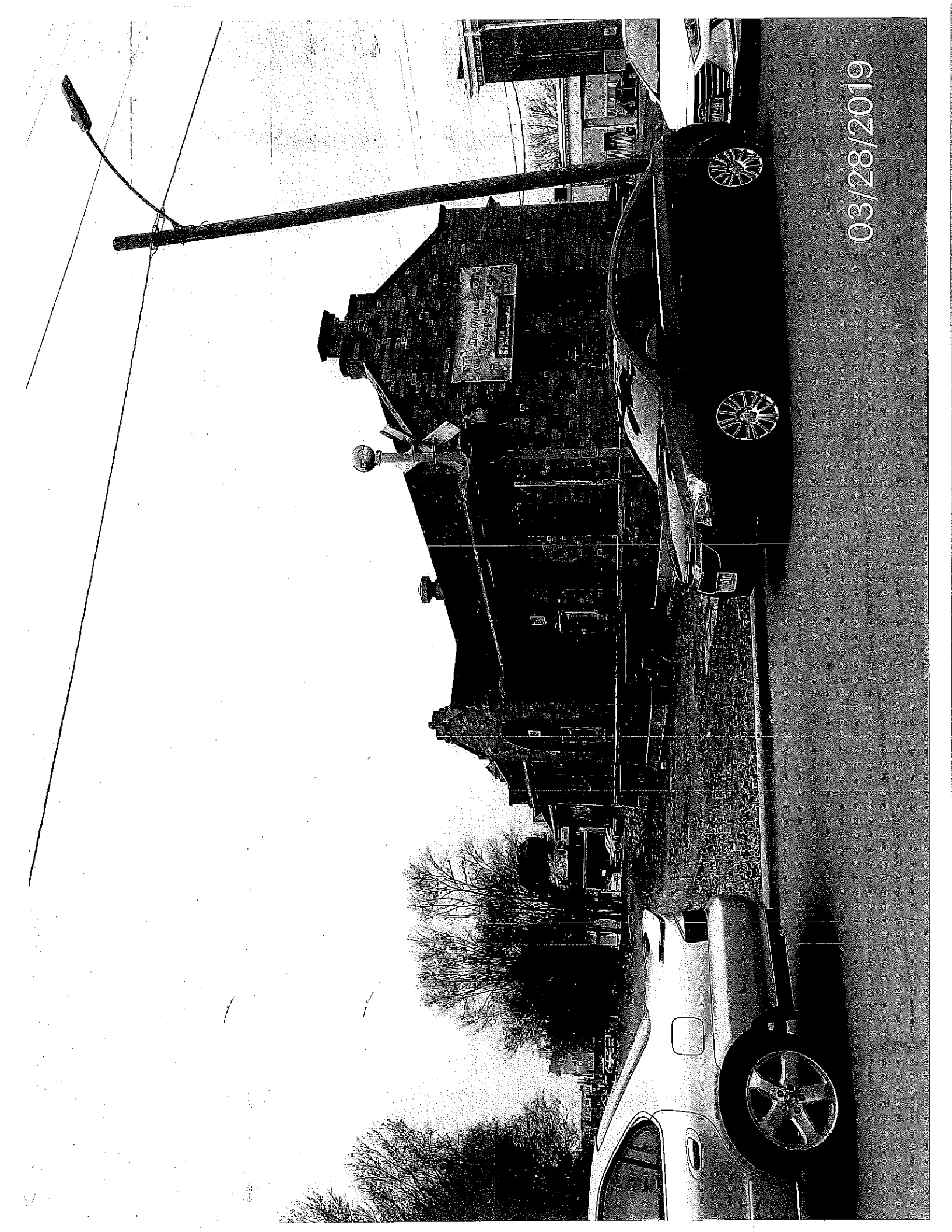
Address 108 S.E. 4TH ST.

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

Five horizontal lines for providing reasons for opposing or approving the request.



03/28/2013



03/28/2019