



Date November 4, 2019

**RESOLUTION HOLDING HEARING ON REQUEST FROM MYER, LLC TO REZONE
PROPERTY LOCATED AT 650 SOUTHEAST 30TH STREET**

WHEREAS, on October 14, 2019, by Roll Call No. 19-1593, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on September 19, 2019, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Myer, LLC (owner), represented by David Silverstein (officer), to rezone property located at 650 Southeast 30th Street ("Property") from "M-1" Light Industrial District to Limited "M-2" Heavy Industrial District, to allow for expansion of the existing scrap yard for outdoor storage that is being displaced by the City's stormwater basin on the northern portion of the site, subject to the following conditions:

1. The following uses of the property shall be prohibited:
 - a. Adult entertainment businesses.
 - b. Taverns or nightclubs.
 - c. Liquor stores.
 - d. Off-premises advertising signs.
 - e. Pawn brokers.
 - f. Delayed deposit services.
2. Any buildings constructed along the public street sides of the site should meet the following requirements:
 - a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
 - b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
 - c. Any façade oriented toward a public street shall have a minimum 20% window and door openings on the first level.
 - d. Any overhead doors shall not be oriented toward a public street.
3. Any redevelopment of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway-Oriented Commercial District; and

WHEREAS, on October 14, 2019, by Roll Call No. 19-1593, it was duly resolved by the City Council that the application from Myer, LLC to rezone the Property be set down for hearing on November 4, 2019 at 5:00 P.M., in the Council Chamber 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 located at 650 Southeast 30th Street, legally described as:



Roll Call Number

Agenda Item Number

66

Date October 14, 2019

A PART OF LOTS 2 AND 3 OF FREDREGILL, AN OFFICIAL PLAT, ALL BEING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3 OF FREDREGILL; THENCE SOUTH 00°12'13" EAST, ALONG THE EAST LINE OF SAID LOT 3, A DISTANCE OF 635.46 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 00°12'13" EAST, A DISTANCE OF 50.00 FEET, ALONG THE EAST LINE OF SAID LOT 3; THENCE SOUTH 89°40'12" WEST, A DISTANCE OF 685.20 FEET TO A POINT ON THE WEST LINE OF SAID LOT 2; THENCE NORTH 00°19'48" WEST, A DISTANCE OF 50.00 FEET ALONG THE WEST LINE OF SAID LOT 2; THENCE NORTH 89°40'12" WEST, A DISTANCE OF 685.31 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.79 ACRES, MORE OR LESS.

from "M-1" Light Industrial District to Limited "M-2" Heavy Industrial District, to allow for expansion of the existing scrap yard for outdoor storage that is being displaced by the City's stormwater basin on the northern portion of the site, subject to the conditions set forth above.

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 "M-2" Heavy Industrial District, with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to Limited "M-2" Heavy Industrial District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to conditions set forth above and subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2019-00168)

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

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, P. Kay Cmelik, 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



Date November 4, 2019
Agenda Item 166
Roll Call # _____

October 1, 2019

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 19, 2019 meeting, the following action was taken regarding a request from Meyer, LLC (owner) represented by David Silverstein (officer) to rezone property located in the vicinity of 650 Southeast 30th Street from Limited "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow extension of scrap yard under development on property to the north.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles				X
Abby Chungath	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			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

APPROVAL of Part A) the Commission find the requested rezoning is in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as "Industrial" and Part B) **APPROVAL** of the requested rezoning of the property from "M-1" Light Industrial District to "M-2" Heavy Industrial District, subject to the following conditions:

1. The following uses of the property shall be prohibited:
 - a. Adult entertainment businesses.
 - b. Taverns or nightclubs.
 - c. Liquor stores.
 - d. Off-premises advertising signs.
 - e. Pawn brokers.
 - f. Delayed deposit services.
2. Any buildings constructed along the public street sides of the site should meet the following requirements:
 - a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
 - b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
 - c. Any façade oriented toward a public street shall have a minimum 20% window and door openings on the first level.
 - d. Any overhead doors shall not be oriented toward a public street.
3. Any redevelopment of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway-Oriented Commercial District.
(ZON2019-00168)

Written Responses

1 in Favor

3 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning is in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as "Industrial".

Part B) Staff recommends approval of the requested rezoning of the property from "M-1" Light Industrial District to "M-2" Heavy Industrial District, subject to the following conditions:

1. The following uses of the property shall be prohibited:
 - a. Adult entertainment businesses.
 - b. Taverns or nightclubs.
 - c. Liquor stores.
 - d. Off-premises advertising signs.
 - e. Pawn brokers.

- f. Delayed deposit services.
2. Any buildings constructed along the public street sides of the site should meet the following requirements:
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4. Any Site Plan for the property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway-Oriented Commercial District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow a junk/salvage yard use, which is currently being developed on the parcel adjacent to the north, to expand an additional 50 feet to its south. The application indicates that the expansion area would be used for outdoor storage, which is being displaced by stormwater basin on the northern portion of the site.
2. **Size of Site:** 50 feet by 690 feet (34,500 square feet).
3. **Existing Zoning (site):** Limited "M-1" Light Industrial District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The 50-foot wide strip of land is undeveloped.
5. **Adjacent Land Use and Zoning:**

North – "M-2", Use is a junk/salvage yard that is being developed.

South - "M-1", Use is an office and warehouse use.

East – "C-2", Uses are vacant land, a vehicle storage yard and vehicle repair shop.

West – "R1-60", Uses are single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the west side of Southeast 30th Street in between East Martin Luther King, Jr. Parkway to

the south and Scott Avenue to the north. The surrounding properties mostly contain industrial uses, with a low-density residential are to the west.

- 7. Applicable Recognized Neighborhood(s):** The subject property is not located within a recognized neighborhood. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on August 30, 2019 and a final agenda on September 13, 2019. All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. Additionally, separate notifications of the hearing for this specific item were mailed on August 30, 2019 (20 days prior to the hearing) and September 9, 2019 (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 site.

The applicant has scheduled their neighborhood meeting for September 16, 2019. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

- 8. Relevant Zoning History:** The subject property and the parcel to the south were rezoned to Limited "M-1" District on August 28, 2017, by Ordinance 15,607. This ordinance also rezoned the property to the north at "M-1" Heavy Industrial District. The rezoning was subject to the following conditions that were placed on both the "M-1" and "M-2" Districts:

- (1) The following uses of the property shall be prohibited:
 - a. Adult entertainment businesses.
 - b. Taverns or nightclubs.
 - c. Liquor stores.
 - d. Off-premises advertising signs.
 - e. Pawn brokers.
 - f. Delayed deposit services.
- (2) Any buildings constructed along the public street sides of the Property should meet the following requirements:
 - a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as cast in place concrete, brick, or stone masonry.
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- (3) Any redevelopment of the Property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
- (4) Any Site Plan for the Property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway-Oriented Commercial District.

9. PlanDSM Future Land Use Plan Designation: Industrial.

- 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. "M-2" Conditional Use Permits:** The proposed salvage yard use would require a Conditional Use Permit from the Zoning Board of Adjustment. Any future request for such would be reviewed against the following criteria:
- a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
 - b. Such use shall not impair an adequate supply of light and air to surrounding property;
 - c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
 - d. Such use shall not diminish or impair established property values in adjoining or surrounding property;
 - e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;
 - f. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
 - g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
 - h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
 - i. The dismantling or repair of vehicles shall occur only upon an impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
 - j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.

- k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.
2. **Permit and Development Center Comments:** Any future redevelopment of the property would require Site Plan review by the City's Permit and Development Center. It is anticipated that the Site Plan for the salvage yard use to the north would be revised to include the expansion area.
3. **Drainage/Grading:** Stormwater management improvements would be required with site development over 10,000 square feet and a Storm Water Pollution Protection Plans (SWPPP) approval by Iowa DNR will be required with site redevelopment over an acre in area.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

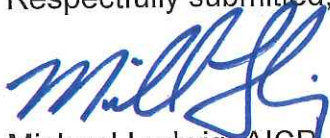
Emily Webb made a motion for approval of Part A) the Commission find the requested rezoning is in conformance with PlanDSM; Creating Our Tomorrow Plan, which designates the property as "Industrial" and Part B) **APPROVAL** of the requested rezoning of the property from "M-1" Light Industrial District to "M-2" Heavy Industrial District, subject to the following conditions:

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3. Any redevelopment of the property shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center.
4. Any Site Plan for the property shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway-Oriented Commercial District.

Motion Carried: 11-0

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael Ludwig", is written over the typed name.

Michael Ludwig, AICP
Planning Administrator

MGL:tjh

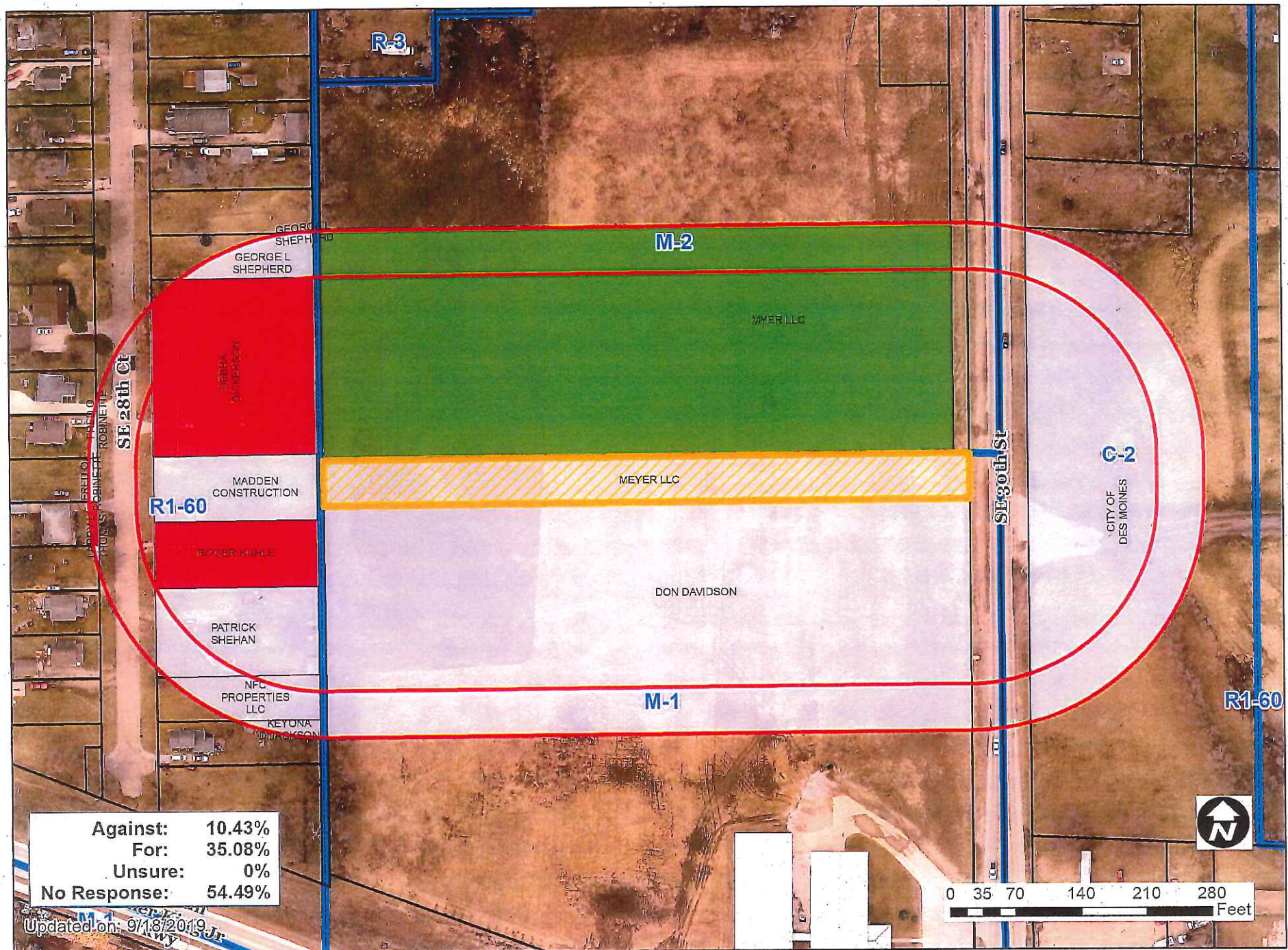
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Meyer, LLC (owner) represented by David Silverstein (officer) for the property located in the vicinity of 650 Southeast 30th Street.		File # ZON2019-00168	
Description of Action	Rezone property from Limited "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow extension of scrap yard under development on property to the north.		
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.		
Mobilizing Tomorrow Transportation Plan	No planned improvements.		
Current Zoning District	Limited "M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.		
Proposed Zoning District	"M-2" Heavy Industrial District and "FSO" Freestanding Signs Overlay District..		
Consent Card Responses	In Favor	Not In Favor	Undetermined
Outside Area (200 feet)	1	3	
Within Subject Property			
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council
	Denial		
			Yes
			No
			X

Myer, LLC, Vicinity of 650 Southeast 30th Street

ZON2019-00168





001

Item

Date SEP 11, 2019I (am) ☒ (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

SEP 16 2019

Print Name

Debra Dickerson

Signature

Debra S. Dickerson

Address

647 SE 28th CT

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

I do not want A CAR SCRAP metal business behind my house. More room for this business means more stuff to stack around waiting to be processed.

Item ZON2019-00168Date 9/12/19I (am) ☒ (am not) in favor of the request.RECEIVED
COMMUNITY DEVELOPMENT

SEP 16 2019

Print Name

Roger J. Kihle

Signature

Roger J. Kihle

Address

707-E 28th Ct. DSM, IA

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

To have a scrap yard abutting this property will only further lessen its value. Are there not enough 'scrap' yards on Vandavia already?

Item

ZON2019-00168

Date

9-12-2019I (am) ☒ (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

SEP 16 2019

Print Name

Larry Thomas

Signature

Larry Thomas

Address

654 SE 28th Ct

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

Who wants to look at a scrap yard plus I pay too much taxes for this mess I've lived here over 60 yrs. I don't approve theres nothing in this for my property. Noise just plain ugly go build it in WDM

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Item ZON2019-00168

Date 9-12-19

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

(Circle One)
EIVED
ITY DEVELOPMENT

P 16 2019

Print Name DAVID Silverstein

Signature David Silverstein

Address 306 SE 5TH ST

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

We are Requesting an additional 50' of
rezoning From m1 - m2. The additional 50'
was purchased due to City water Retention
area on the North side of the property.