



Date February 10, 2020

RESOLUTION HOLDING HEARING ON REQUEST FROM JEFF AND TONYA NICHOLSON D/B/A P&P SMALL ENGINES TO AMEND PLAN THE EXISTING PLANDSM: CREATING OUR TOMORROW PLAN FUTURE LAND USE DESIGNATION AND REZONE PROPERTY LOCATED AT 905 AND 909 EAST 27TH STREET AND 916 AND 917 EAST 27TH COURT

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

WHEREAS, on January 27, 2020, by Roll Call No. 20-0141, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 16, 2020, the City Plan and Zoning Commission voted 13-0 in support of a motion to recommend **APPROVAL** of a request by Jeff and Tonya Nicholson, doing business as (d/b/a) P&P Small Engines (owner), to amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation for real property locally known as 905 East 27th Street, from Low Density Residential to Community Mixed Use, to allow for rezoning to Limited MX3 Mixed Use District and bring existing properties used for a small engine sales and service business into conformance with zoning regulations; and

WHEREAS, the City Plan and Zoning Commission further has advised that at a public hearing held on January 16, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Jeff and Tonya Nicholson, d/b/a P&P Small Engines, to rezone real properties located at 905 and 909 East 27th Street and 916 and 917 East 27th Court (collectively "Property") from N3c Neighborhood District to Limited MX3 Mixed Use District, to bring the Property into conformance with zoning regulations, subject to the following conditions:

1. Any expansion of the existing business, or any future development upon the Property, shall be in accordance with a Site Plan as approved by the City's Permit and Development Center; and
2. Any outdoor storage on that portion of the Property known as 909 East 27th Street (Lot 5 of Block 3 of Farwell Place) shall comply with the Variance granted by the Zoning Board of Adjustment on November 28, 2012 by Docket ZON2012-00130; and

WHEREAS, on January 27, 2020, by Roll Call No. 20-0141, it was duly resolved by the City Council that the application from Jeff and Tonya Nicholson to amend the PlanDSM: Creating Our Tomorrow future land use designation and to rezone the Property be set down for hearing on February 10, 2020 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 905 and 909 East 27th Street and 916 and 917 East 27th Court, legally described as:

LOT 5 (EXCEPT THAT PART THEREOF DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTHERLY ON THE WEST LINE OF LOT5 TO THE NORTHWEST CORNER THEREOF; THENCE EASTERLY 5 FEET ON THE NORTH LINE OF SAID LOT 5; THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING) AND LOTS 6, 27 AND 28



Roll Call Number

Agenda Item Number

45A

Date February 10, 2020

IN BLOCK 3, AND LOT 3 IN BLOCK 4, ALL IN FARWELL PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

from N3c Neighborhood District to Limited MX3 Mixed Use District, to allow for the existing properties used for a small engine sales and service business to be brought into conformance with zoning regulations, 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 amendment to the existing PlanDSM: Creating Our Tomorrow Plan future land use designation for 905 East 27th Street or to the rezoning of the Property to Limited MX3 Mixed Use District, with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed amendment to the PlanDSM: Creating Our Tomorrow Plan for the property locally known as 905 East 27th Street to Community Mixed Use is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to Limited MX3 Mixed Use 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, Assistant City Attorney

(21-2019-4.26)
(ZON2019-00240)

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

MOTION CARRIED APPROVED

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.

Mayor

City Clerk



January 21, 2020

Date February 10, 2020

Agenda Item USA

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 January 16, 2020 meeting, the following action was taken regarding a request from Jeff and Tonya Nicholson d/b/a P&P Small Engines (owners) to rezone property located at 905 & 909 East 27th Street and 916 & 917 East 27th Court from "N3c" Neighborhood District to "MX3" Mixed Use District, to bring existing properties used for a small engine sales and service business into conformance with zoning regulations. Additional subject property is owned by JNT Properties, LLC.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	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 proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court is in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use; and the proposed rezoning of 905 East 27th Street is not in conformance with the Des Moines'

PlanDSM: Creating Our Tomorrow Plan future land use designation of Low Density Residential, Part B) **APPROVAL** of the request to amend PlanDSM Creating Our Tomorrow's future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street and Part C) **APPROVAL** of the request to rezone the property from "N3c" Neighborhood District to "MX3" Mixed Use District, subject to the following conditions:

1. Any expansion of the existing business, or any future development upon the premise, shall be in accordance with a Site Plan as approved by the City's Permit and Development Center.
2. Any outdoor storage on the property known as 909 East 27th Street (Lot 5 of Block 3 of Farwell Place) shall comply with the Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130.

(21-2019-4.26) & (ZON2019-00238)

Written Responses

10 in Favor

1 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court is in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use; and the proposed rezoning of 905 East 27th Street is not in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of Low Density Residential.

Part B) Staff recommends approval of the request to amend PlanDSM Creating Our Tomorrow's future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street.

Part C) Staff recommends approval of the request to rezone the property from "N3c" Neighborhood District to "MX3" Mixed Use District, subject to the following conditions:

1. Any expansion of the existing business, or any future development upon the premise, shall be in accordance with a Site Plan as approved by the City's Permit and Development Center.
2. Any outdoor storage on the property known as 909 East 27th Street (Lot 5 of Block 3 of Farwell Place) shall comply with the Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning to “MX3” District would bring all parcels associated with existing business (P&P Small Engines) under a common zoning classification. The parcels associated with the business at 2715 East University Avenue and 913 East 27th Street are currently zoned “MX3” District.

While the proposed “MX3” District does not allow for any outdoor storage, the existing outdoor storage that is occurring on the parcel at 909 East 27th Street is allowed to continue in accordance with a Variance granted by the Zoning Board of Adjustment on November 28, 2012, by Docket ZON2012-00130. Staff notes that the properties known as 905 East 27th Street and 916 & 917 East 27th Court are not permitted to have any outdoor storage at this time.

Any expansion of the existing business, or any future development upon the premise, must be in accordance with a Site Plan as approved by the City’s Permit and Development Center. Any modification to, or expansion of, the outdoor storage occurring on the premise would be subject to the Zoning Board of Adjustment granting the necessary zoning appeal(s).

2. **Size of Site:** 33,500 square feet (0.77 acres).
3. **Existing Zoning (site):** “N3c” Neighborhood District.
4. **Existing Land Use (site):** The subject property portions of the commercial business (P&P Small Engines) at 2715 East University Avenue. The properties at 905 & 909 East 27th Street and 917 East 27th Court also each contain a single-family residential use.
5. **Adjacent Land Use and Zoning:**

North – “MX3”, Uses are P & P Small Engines and a single-family dwelling.

South – “N3c”, Uses are a levee system and City owned floodway.

East – “N3c”, Use is a single-family dwelling.

West – “MX1”, Use is the D.A.V. Thrift Store and parking lot.

6. **General Neighborhood/Area Land Uses:** The subject property is located on the fringe of the East University major commercial corridor, where uses transition to low-density residential.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Fairground Neighborhood and within 250 feet of the ACCENT Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019. Additionally, separate notifications of the

hearing for this specific item were mailed on December 27, 2019 (20 days prior to the public hearing) and January 6, 2020 (10 days prior to the public hearing) 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. A Final Agenda was mailed to recognized neighborhoods on January 10, 2020.

The Fairground Neighborhood mailings were sent to Rick Trower, Laura Mundy, 2820 Logan Avenue, Des Moines, IA 50317, and the ACCENT Neighborhood mailings were sent to Kevin Scott Marken, 2109 East 28th Street, Des Moines, IA 50317.

The applicant is scheduled to hold their neighborhood meeting on January 8, 2020. The applicant will be available to provide a summary of the neighborhood meeting at the hearing.

- 8. Relevant Zoning History:** On October 22, 2012, the City Council rezoned the parcel known as 909 East 27th Street from “R1-60” One-Family Low-Density Residential District to the Limited “C-1” Neighborhood Retail Commercial District, subject to the following condition: “Screening of any outdoor storage that is permitted.”

On November 28, 2012, by Docket ZON2012-00130, the Zoning Board of Adjustment granted a Variance of the requirement that all storage of materials and equipment in the “C-1” District shall take place within a completely enclosed building and an amended appeal for an Exception of 5 feet less than the minimum required 10-foot setback from property zoned “Residential” District, to allow retention of outdoor storage of materials and equipment related to a lawn mower service business. These appeals are limited to the parcels known as 2715 East University Avenue and 909 & 913 East 27th Street. The approval is subject to the following conditions:

- a) Any outdoor storage on the premises shall be in accordance with a Site Plan as approved by the City’s Permit and Development Center.
- b) Any outdoor storage shall only occur on existing gravel material until December 4, 2015, which is three years from the signing of the Board’s Decision & Order. After December 4, 2015, any outdoor storage on the site shall only occur on a durable and dustless surface.
- c) Any outdoor storage shall be setback at least 5 feet from any property line.
- d) Any outdoor storage on the premises shall be screened by a 6-foot tall screen.
- e) The engine on any equipment stored within the area shall remain idle while in the outdoor storage area.
- f) Any fence constructed on the property shall be in accordance with any necessary permit issued by the Permit and Development Center.

The City’ new Zoning Ordinance took effect on December 15, 2019. This new Zoning Map designated 905 & 909 East 27th Street and 916 & 917 East 27th Court as “N3c”

District. The applicant subsequently filed an application to rezone these parcels to “MX3” District, which is what the property (held in common) at 2715 East University Avenue and 913 East 27th Street.

9. **PlanDSM Land Use Plan Designation:** Community Mixed Use and Low Density Residential.
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.

III. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Land Use Plan:** The City’s comprehensive land use plan designates 909 East 27th Street and 916 & 917 East 27th Court as “Community Mixed Use”. PlanDSM describes “Community Mixed Use” as: *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 customer.*

Therefore, the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court to “MX3” is compatible with the comprehensive land use plan.

The City’s comprehensive land use plan designates 905 East 27th Street as “Low Density Residential”. PlanDSM describes “Low Density Residential” as: *Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.*

Therefore, the proposed rezoning of 905 East 27th Street to “MX3” District requires the future land use designation to be amended to “Community Mixed Use”.

2. **Streets and Access:** A traffic study was not required by the City’s Traffic Engineering Division for the requested rezoning.

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:

Greg Jones made a motion for **APPROVAL** of Part A) the Commission find the proposed rezoning of 909 East 27th Street and 916 & 917 East 27th Court is in conformance with the

Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of Community Mixed Use; and the proposed rezoning of 905 East 27th Street is not in conformance with the Des Moines' PlanDSM: Creating Our Tomorrow Plan future land use designation of Low Density Residential, Part B) **APPROVAL** of the request to amend PlanDSM Creating Our Tomorrow's future land use designation from Low Density Residential to Community Mixed Use for property at 905 East 27th Street and Part C) **APPROVAL** of the request to rezone the property from "N3c" Neighborhood District to "MX3" Mixed Use District, subject to the following conditions:

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Motion passed: 13-0

Respectfully submitted,



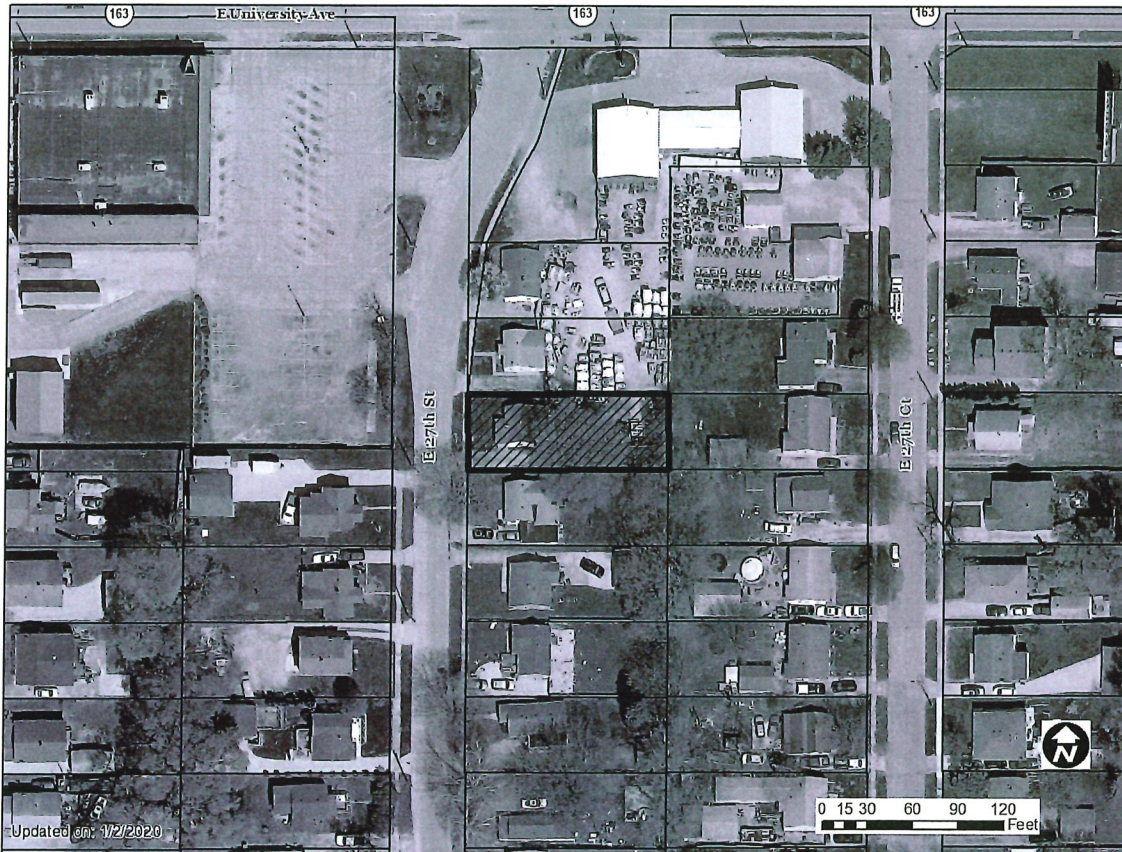
Erik Lundy, AICP
Senior City Planner

EML:tjh

Jeff and Tonya Nicholson d/b/a P&P Small Engines (owners) for property located at 905 East 27th Street. The subject property is owned by JNT Properties, LLC.				File # 21-2019-4.26	
Description of Action	Amend PlanDSM Creating Our Tomorrow's future land use designation from Low Density Residential to Community Mixed Use				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"N3c" Neighborhood District.				
Proposed Zoning District	"MX3" Mixed Use District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	0	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Small Engines, 905 East 27th Street

21-2019-4.26

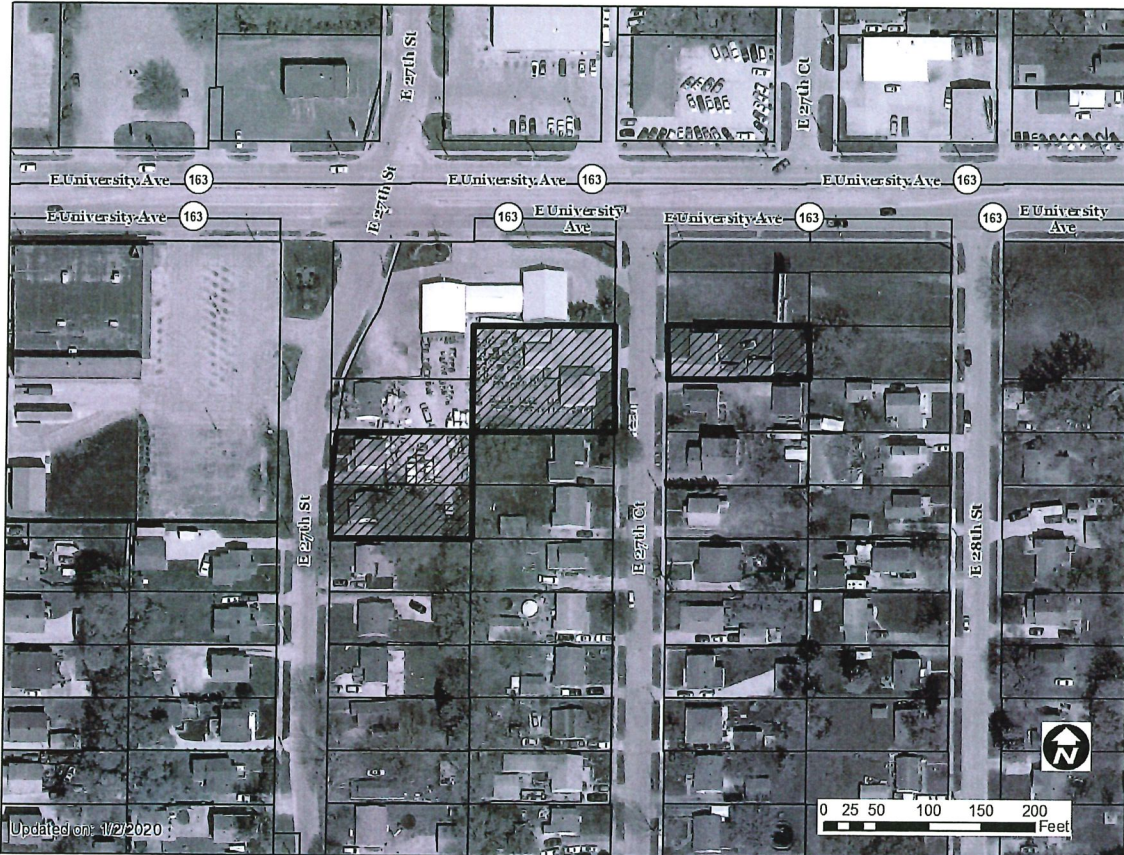


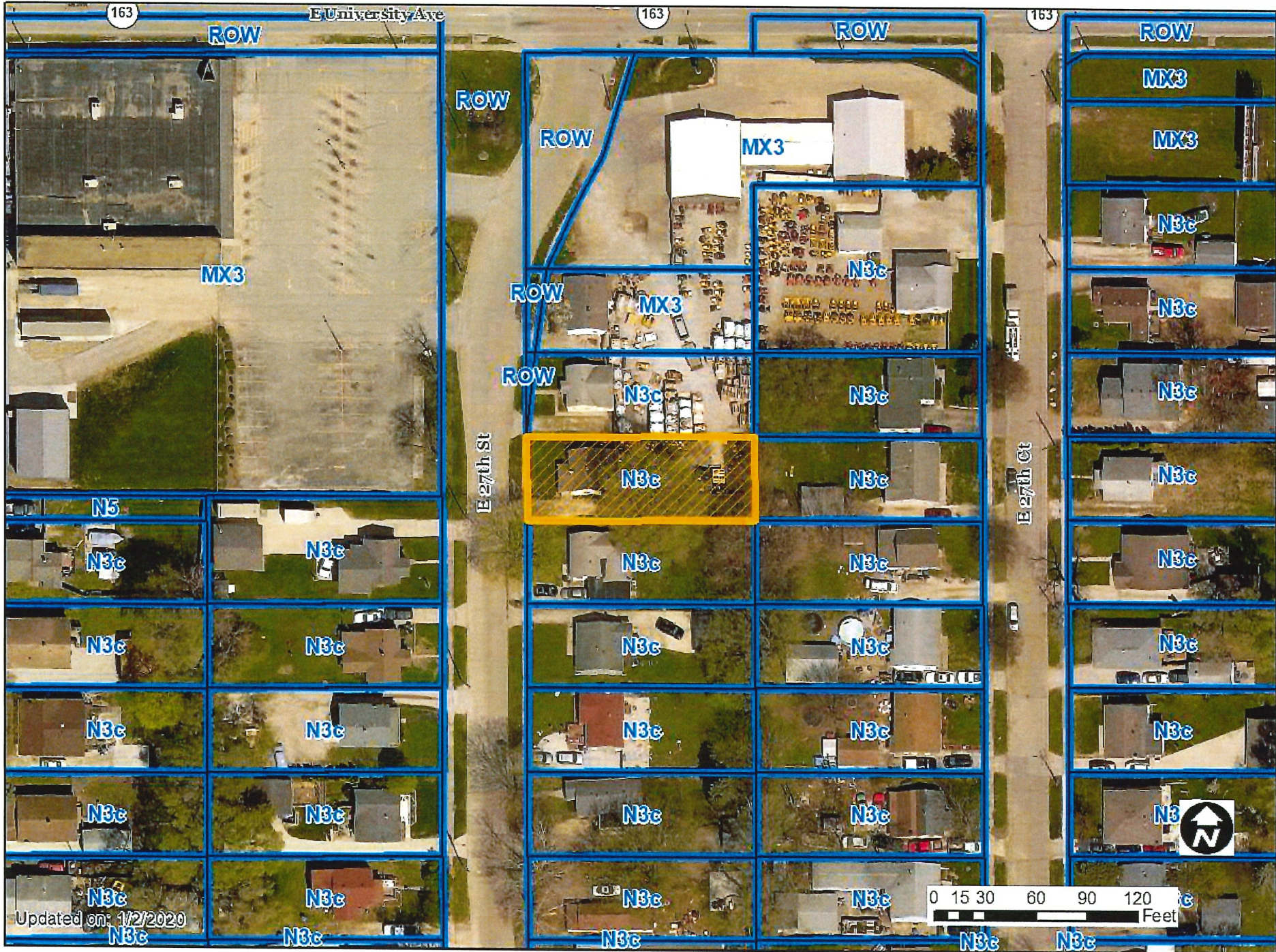
1 inch = 75 feet

Jeff and Tonya Nicholson d/b/a P&P Small Engines (owners) for property located at 905 & 909 East 27th Street and 916 & 917 East 27th Court. Additional subject property is owned by JNT Properties, LLC.				File # ZON2019-00238	
Description of Action	Rezone property from "N3c" Neighborhood District to "MX3" Mixed Use District, to bring existing properties used for a small engine sales and service business into conformance with zoning regulations.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"N3c" Neighborhood District.				
Proposed Zoning District	"MX3" Mixed Use District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	10	1			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

P&P Small Engines, 905 & 909 E. 27th Street and 916 & 917 E. 27th Court

ZON2019-00238





USA



Updated on: 1/16/2020

1 inch = 107 feet

USA

45A

Drost, Bert A.

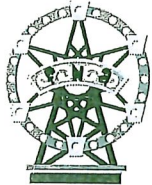
From: Fairground Neighborhood Association <fna50317@gmail.com>
Sent: Thursday, January 16, 2020 12:08 PM
To: Drost, Bert A.; jegff@pandpsmallengines.com
Subject: P and P small engines

Good morning Bert:

The Fairground Neighborhood Association is putting support behind P and P small engines.
we support the addresses to stay commercial 905 E 27th ST, 909 E 27th ST, 916 E 27th CT, 917 E 27th CT.

Thank you,

Fairground Neighborhood Association
PO BOX 473
Des Moines, IA 50301
FNA50317@gmail.com



Item: ZON2019-00238

Date: 1-9-2020

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

(Circle One)

Print Name: David & Betty Brinson

Signature: David & Betty Brinson

Address: 825 E. 27th Ct.

RECEIVED
COMMUNITY DEVELOPMENT

JAN 14 2020

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

I think the property should be used for affordable housing!
Do Not feel its is what Public NEEDS.

Item: ZON2019-00238

Date: 1/8/2020

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

(Circle One)

Print Name: Kimberly Eddinger

Signature: Kimberly Eddinger

Address: 909 E. 27th Ct.
Des Moines, Iowa 50317

RECEIVED
COMMUNITY DEVELOPMENT

JAN 13 2020

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

To improve the neighborhood

USA

Item: ZON2019-00238

Date: 1-9-2020

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

(Circle One) RECEIVED

COMMUNITY DEVELOPMENT

Print Name: Kevin Marken, Accent Neighborhood Association

Signature: Kevin Marken

JAN 13 2020

Address: 2109 E 28th St

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

Accent Neighborhood is across 28th Street from property. Have emailed owner, Jeff, and understand the mistake in rezoning the property from what it was for years. Have no problem with leaving the decision to the commission and residents, - Kevin Marken, Accent Neighborhood

Item: ZON2019-00238 Date: 01/10/20

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

(Circle One)

Print Name: R Clark Properties

RECEIVED
COMMUNITY DEVELOPMENT

Signature: [Signature]

JAN 14 2020

Address: 831 E 27th Ct / 2509 NE 46th Ave.

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

Let Small Business expand as IT HAS BEEN
there for years, and NOT A NEW BUSINESS
or location.

Item: ZON2019-00238 Date: 1/8/20

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

(Circle One)

Print Name: TEDOSWACO/Endeavor Rentals

RECEIVED
COMMUNITY DEVELOPMENT

Signature: [Signature]

JAN 13 2020

Address: 905 E 27th Ct

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

45A

Item: ZON2019-00238

Date: 01/09/2020

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

(Circle One)

Print Name: Douglas Ray Brown

RECEIVED
COMMUNITY DEVELOPMENT

Signature: [Signature]

JAN 13 2020

Address: 214 E. University DUNTHA 50517

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

Item: ZON2019-00238 Date: 1-8-2020

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

(Circle One) RECEIVED COMMUNITY DEVELOPMENT
Print Name: DENNIS BAKER

JAN 13 2020

Signature: Dennis Baker

Address: 910 E 28th St

Am IA 50317

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

Item: ZON2019-00238 Date: 1-8-2020

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

(Circle One) RECEIVED COMMUNITY DEVELOPMENT
Print Name: TOM DAWSON

JAN 13 2020

Signature: Tom Dawson

Address: 901 E 36 Court

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

454

Item: ZON2019-00238

Date: 1.9.20

I (am) (am not) in favor of the request:
 (Circle One)

RECEIVED COMMUNITY DEVELOPMENT

Print Name: Stevan & Kimberly Smith

JAN 13 2020

Signature: Kim Smith
Address: 902 E. 28th St.

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

We are more than happy to agree with this change!

Item: ZON2019-00238 Date: 1/9/20 45A

I (am) (am not) in favor of the request: DAV
(Circle One) Print Name: Chris Blongy

RECEIVED
COMMUNITY DEVELOPMENT
JAN 14 2020

Signature: Chris
Address: 2627 E university Ave

Reason for opposing or approving this request may be listed below:
PnP is a good business and
are already using these properties
They keep their areas clean and safe

Item: ZON2019-00238 Date: 1/13/2020

I (am) (am not) in favor of the request:
(Circle One) Print Name: TONYA NICHOLSON

RECEIVED
COMMUNITY DEVELOPMENT
JAN 16 2020

Signature: Tonya Nicholson
Address: JNT Properties

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

