

Date August 17, 2020

**RESOLUTION SETTING HEARING ON CITY-INITIATED REQUEST TO AMEND  
PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY  
LOCATED IN THE VICINITY OF 4101 AND 4104 AMHERST STREET, 4102 NORTH  
UNION STREET, AND ADJOINING LOTS AND ALLEY RIGHT-OF-WAY**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 6, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a City-initiated request to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 4101 Amherst Street, 4104 Amherst Street, 4102 North Union Street, Polk County Assessor Parcel No. 070/02624-001-000, and the vacated alleys immediately adjoining 4101 Amherst Street and 4104 Amherst Street, from Low Density Residential to Public/Semi-Public; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on August 6, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a City-initiated request to rezone real property locally known as 4104 Amherst Street, 4102 North Union Street, Polk County Assessor Parcel No. 070/02624-001-000, and the vacated alleys immediately adjoining 4101 Amherst Street and 4104 Amherst Street (“Rezoning Property”) from N3a Neighborhood District to P2 Public, Civic and Institutional District to allow existing surface parking to be reconstructed with underground stormwater detention as part of the City’s regional Hamilton Drain project; and

**WHEREAS**, the Rezoning Property is legally described as follows:

LOT 12 IN BLOCK 1 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M.,  
AND

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOTS 13 AND 14 IN SAID BLOCK 1,  
AND

LOTS 10, 11 AND 12 IN BLOCK 2 OF SAID OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M.,  
AND

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 10, 11 AND 12 IN SAID BLOCK 2,  
AND

LOTS 18 AND 19 OF MADISON GARDENS, AN OFFICIAL PLAT,  
ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

**Date** August 17, 2020

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed amendment to the comprehensive plan future land use designation and proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposals, shall be held at 5:00 p.m. on September 14, 2020, by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code. The City Clerk is instructed to provide this notice including information about participation in the electronic meeting as indicated above.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

/s/Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

(21-2020-4.14)  
(ZON2020-00083)

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



August 11, 2020

Date August 17, 2020

Agenda Item 31

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 August 6, 2020 meeting, the following action was taken regarding a City initiated request to rezone property located at 4104 Amherst Street, 4102 North Union Street, the vacated alley immediately adjoining 4101 Amherst Street and Lots 18 and 19 of Madison Gardens from "N3a" Neighborhood District to the "P2" Public, Civic and Institutional District, to allow existing surface parking to be reconstructed with underground stormwater detention as part of the City's regional Hamilton Drain project.

**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			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	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) that the requested rezoning to "P2" District be **FOUND IN CONFORMANCE** with the PlanDSM Creating Our Tomorrow Comprehensive Plan, Part B) **APPROVAL** of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan future land use classification from Low Density Residential to

Public/Semi-Public for the subject properties and Part C) **APPROVAL** of rezoning the subject property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the property owner’s expense.

(21-2020-4.14) & (ZON2020-00083)

### Written Responses

3 in Favor

1 in opposition

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

Part A) Staff recommends that the requested rezoning to “P2” District be found in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan future land use classification from Low Density Residential to Public/Semi-Public for the subject properties.

Part C) Staff recommends approval of rezoning the subject property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the property owner’s expense.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed rezoning would allow construction of underground stormwater detention under the existing surface parking lot. The construction project would be part of the City’s regional Hamilton Drain project. Following completion of the underground stormwater detention, the property owner would reestablish use of the subject parcels south of East Shawnee and west of Amherst Street as surface parking lots. The southern portion of the city alley right-of-way midway between Amherst Street and Bowdoin Street would be included with the property.
2. **Size of Site:** Approximately 60,094 square feet (1.38 acres).
3. **Existing Zoning (site):** “N3a” Neighborhood District and “P2” Public, Civic, and Institutional District.
4. **Existing Land Use (site):** The subject properties contain a structure utilized religious assembly, a vacated alley right-of-way, a portion of an alley right-of-way, and two surface parking lots.
5. **Adjacent Land Use and Zoning:**

**North** – “N3a”; Use is a one household dwelling.

**South** – “N3a”; Use is a one household dwelling.

**East** – “N3a”; Use is a one household dwelling.

**West** – “N3a”; Use is a one household dwelling.

6. **General Neighborhood/Area Land Uses:** The subject properties are located at the intersection of East Shawnee Avenue and Amherst Street in an area that predominantly consists of one-household residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Highland Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 17, 2020 (20 days prior to the public hearing) and July 27, 2020 (10 days prior to the public hearing) to the neighborhood associations 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 Highland Park Neighborhood Association mailings were sent to Ashley Kennebeck, 3818 7<sup>th</sup> Street, Des Moines, IA 50313.

Due to the COVID-19 pandemic, a neighborhood meeting was not held. As the proposed project is City initiated, notices sent 10 days and 20 days prior to the August 6, 2020 meeting of the Plan and Zoning Commission to each property owner within 250 feet serve as both neighbor communication and courtesy notification.

8. **Relevant Zoning History:** On February 27, 2019 by Docket No. ZON2019-00003, the Zoning Board of Adjustment conditionally approved an appeal for a Special Permit for an institution of religious character, to allow expansion of the existing church use to include construction of an addition, generally measuring 6 feet by 16 feet, to the south façade of the building, which would be within 0 feet of the front (south) property line along East Shawnee Street; retention of mechanical equipment along the south façade of the building that is within 0 feet of the front (south) property line along East Shawnee Street; construction of an addition, measuring 5 feet by 26.25 feet, to the north façade of the building, which would be within 0 feet of the side (north) property line; and installation of mechanical equipment to the west of the building, which would be within 12 feet of the front (west) property line along Amherst Street.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** 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.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The applicant is proposing to amend the existing land use designation of the subject property from “Low-Density Residential” to “Public/Semi-Public”.

Low- Density Residential -- Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

Public/Semi-Public -- Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

The applicant is proposing to rezone the property from “N3a” Neighborhood District to “P2” Public, Civic, and Institutional District. The “P2” District allows for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure Includes public or private infrastructure, including rail corridors and utility corridors or sites.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).
3. **Utilities:** An abandoned storm sewer conduit is located through the southernmost subject property. An enclosed gravity pipe storm sewer conduit is located through the southern portion of the southernmost subject property. Easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the purchaser’s expense

*The subject property at 4101 Amherst Street is already zoned “P2”, while the subject properties to the west and south, across Amherst Street and East Shawnee Street respectively, are surface parking lots utilized by the church zoned “N3a”. The proposed rezoning of the subject parcels currently zoned “N3a” to “P2” District would allow for the existing and proposed uses of religious assembly and infrastructure. All subject properties are currently designated “Low-Density Residential”. Amending the designations of the subject property would bring the zoning and the Land Use Plan into conformance.*

## SUMMARY OF DISCUSSION

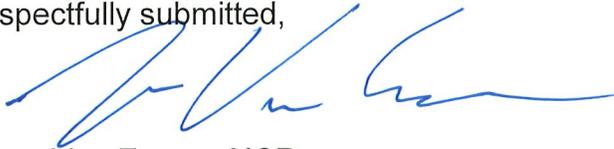
Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

**COMMISSION ACTION:**

**Will Page** made a motion for: Part A) that the requested rezoning to “P2” District be **FOUND IN CONFORMANCE** with the PlanDSM Creating Our Tomorrow Comprehensive Plan, Part B) **APPROVAL** of the request to amend PlanDSM Creating Our Tomorrow Comprehensive Plan future land use classification from Low Density Residential to Public/Semi-Public for the subject properties and Part C) **APPROVAL** of rezoning the subject property from “N3a” Neighborhood District to the “P2” Public, Civic and Institutional District subject to the reservation of easements for any existing utility until such time that they are abandoned or relocated at the property owner’s expense.

Motion passed: 13-0

Respectfully submitted,



Jason Van Essen, AICP  
Senior City Planner

JVE:tjh

City initiated request for property located at 4101 & 4104 Amherst Street, 4102 North Union Street, and Lots 18 and 19 Madison Gardens. Property is owned by True Bible Baptist Church.				File #
				21-2020-4.14
Description of Action	Amend PlanDSM Creating Our Tomorrow Comprehensive Plan the revise the future land use classification from Low Density Residential to Public/Semi-Public.			
PlanDSM Future Land Use	Current: Low Density Residential Proposed: Public/Semi-Public			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"N3a" Neighborhood District			
Proposed Zoning District	"P2" Public, Civic, and Institutional 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

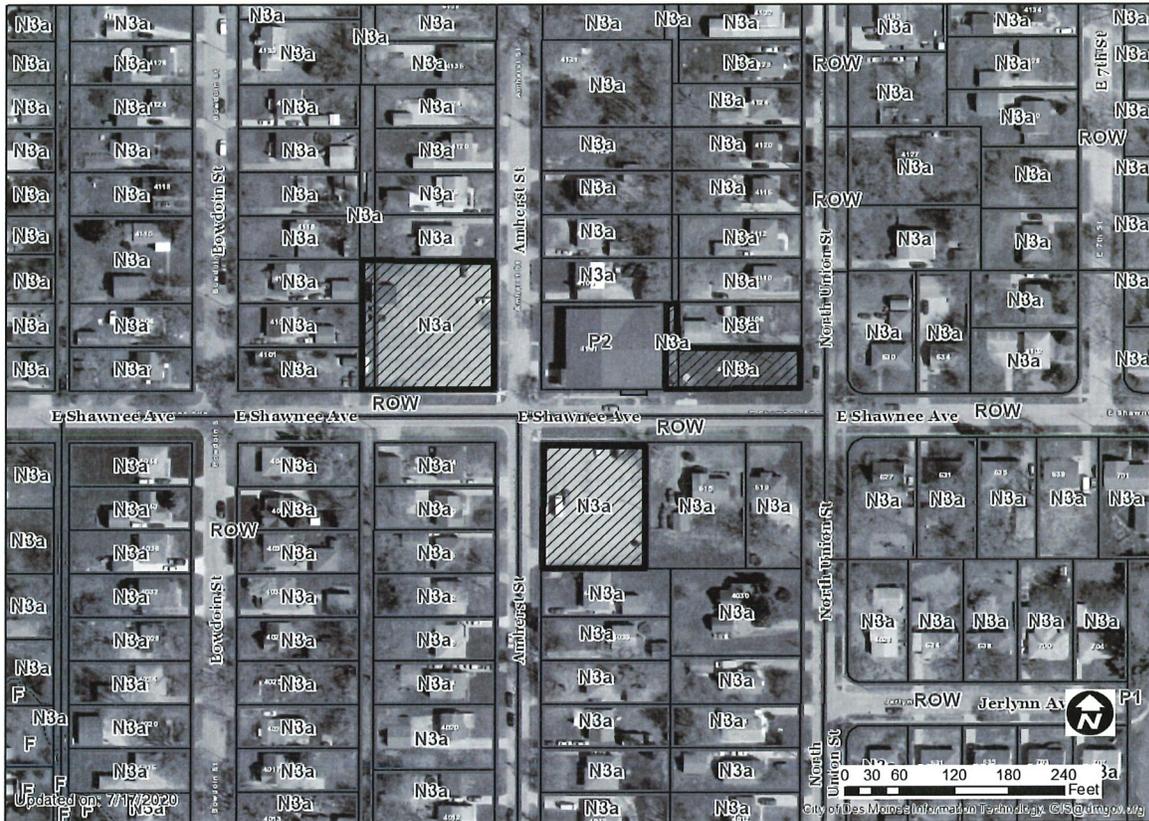
City initiated, 4104 Amherst St., 4102 North Union St., and Lots 18 & 19 Madison Gardens 21-2020-4.14



1 inch = 125 feet

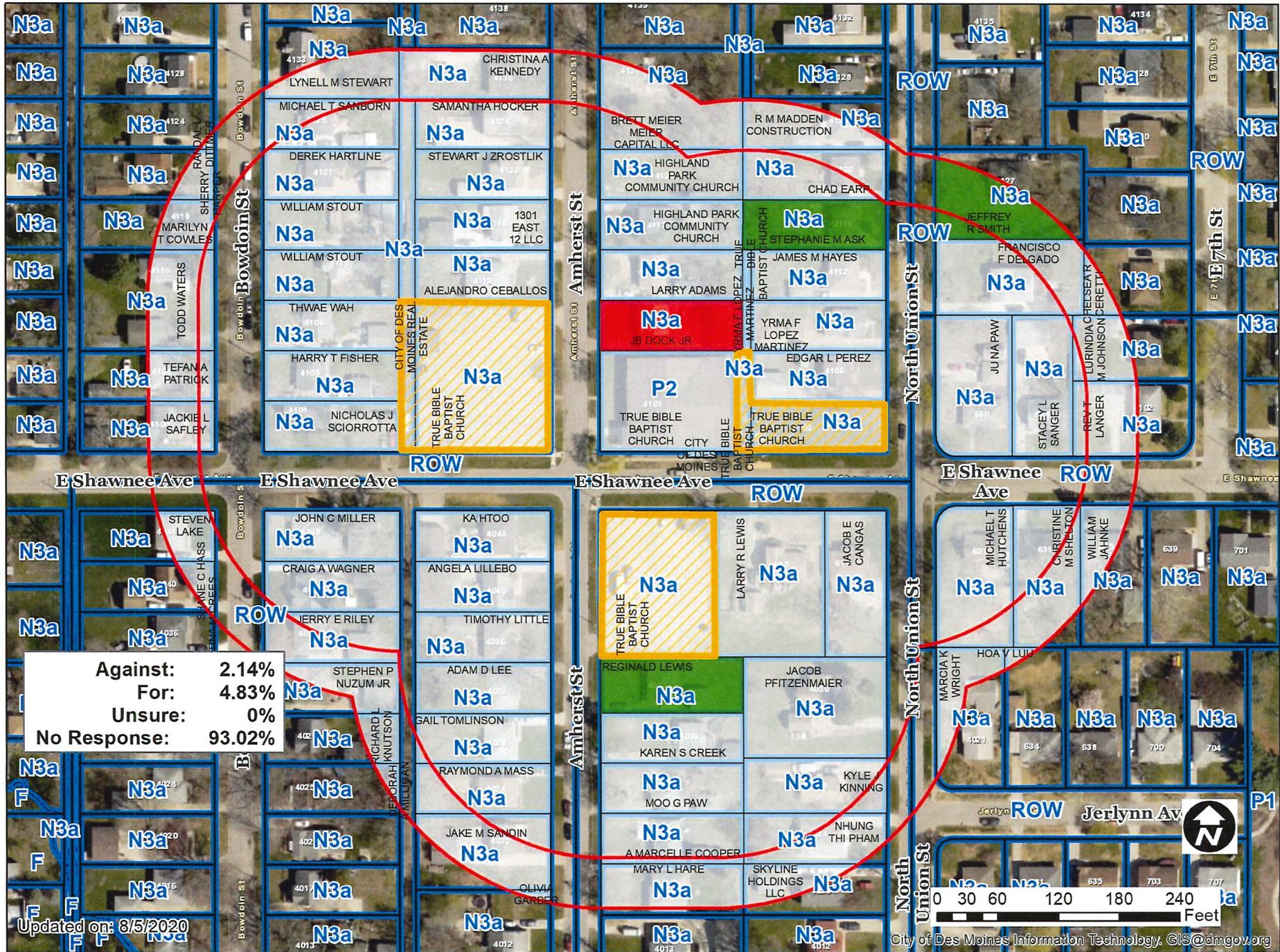
<b>City initiated request for property located at 4104 Amherst Street, 4102 North Union Street, and Lots 18 and 19 Madison Gardens. Property is owned by True Bible Baptist Church.</b>				<b>File #</b> ZON2020-00083	
<b>Description of Action</b>	Rezone property from "N3a" Neighborhood District to the "P2" Public, Civic and Institutional District, to allow existing surface parking to be reconstructed with underground stormwater detention as part of the City's regional Hamilton Drain public improvement project.				
<b>PlanDSM Future Land Use</b>	Current: Low Density Residential Proposed: Public/Semi-Public				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"N3c" Neighborhood District.				
<b>Proposed Zoning District</b>	"P2" Public, Civic and Institutional District				
<b>Consent Card Responses Outside Area (200 feet)</b>	In Favor	Not In Favor	Undetermined	% Opposition	
<b>Within Subject Property</b>	3	1			
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

City initiated, 4104 Amherst St., 4102 North Union St., and Lots 18 & 19 Madison Gardens ZON2020-00083



1 inch = 125 feet

City initiated, 4104 Amherst St., 4102 North Union St., and Lots 18 & 19 Madison Gardens ZON2020-00083



1 inch = 126 feet

Item: ZON2020-00083

Date: Aug 1, 2020

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

(Circle One)

Print Name: Jeffrey R Smith

Signature: [Handwritten Signature]

RECEIVED  
COMMUNITY DEVELOPMENT

AUG 05 2020

Address: 4127 N. Union St DSCAT  
50315

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZON2020-00083 Date: 7-29/20 21

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

**(Circle One)**

Print Name: Reginald Lewis

RECEIVED  
COMMUNITY DEVELOPMENT

Signature: Reginald Lewis

AUG 3 2020

Address: 4037 Amherst

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZON2020-00083 Date: 07/29/2020

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

**(Circle One)**

Print Name: Stephanie Ask

RECEIVED  
COMMUNITY DEVELOPMENT

Signature: Steph Ask

AUG 3 2020

Address: 4116 N. Union

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZON2020-00083 Date: 07/29/2020

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

(Circle One)

Print Name: Jessica Dock

RECEIVED

COMMUNITY DEVELOPMENT

Signature: [Handwritten Signature]

AUG 3 2020

Address: 4109 Amherst St

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

I work from home due to covid. I'm not  
trying to hear construction. try next year.