

Date January 25, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM FEBRUARY 30TH PROPERTIES
DBA SOUTH DES MOINES VET CENTER (CONTRACT BUYERS) TO AMEND PLANDSM
FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 601
ARMY POST ROAD AND 6302 SOUTHWEST 6TH STREET**

WHEREAS, on January 11, 2021, by Roll Call No. 21-~~0017~~ the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on December 17, 2020, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 601 Army Post Road and 6302 Southwest 6th Street (“Property”) from Low Density Residential within a Community Node to Community Mixed Use within a Community Node to allow rezoning to ‘MX3’ Mixed Use District to allow the property to be developed for Animal Service, Veterinary and Boarding uses. The titleholders of the subject property are Joseph and Deborah Madonia; and

WHEREAS, on January 11, 2021, by Roll Call No. 21-~~0017~~ the City Council further received the City Plan and Zoning Commission’s recommendation that at a public hearing held on December 17, 2020, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer), to rezone the Property from ‘N3a’ Neighborhood District and ‘MX2’ Mixed Use District to ‘MX3’ Mixed Use District for the above-stated purpose subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX2” District, and Boarding uses as defined by the Animal Service Use Category; and
2. Accessory structures shall be limited to those permitted in the “MX2” Mixed Use District per Table 135-2.22-1; and

WHEREAS, on January 11, 2021, by Roll Call No. 21-~~0017~~ it was duly resolved by the City Council that the request to amend the land use designation and to rezone the Property be set down for hearing on January 25, 2021 at 5:00 P.M., by electronic means in accordance with the Governor’s and Mayor’s Proclamations and to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location; 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 land use amendment and rezoning; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and 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 601 Army Post Road and 6302 Southwest 6th Street, legally described as:



Date January 25, 2021

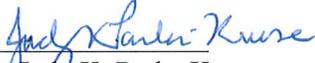
LOTS THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), SIXTEEN (16), SEVENTEEN (17), EIGHTEEN (18), NINETEEN (19) AND TWENTY (20) IN BLOCK 6 OF PORTER'S REPLAT, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

from to 'MX3' Mixed Use District for the above-stated purpose subject to the conditions that permitted uses shall be limited to those uses allowed in common with the "MX2" District, and Boarding uses as defined by the Animal Service Use Category; and Accessory structures shall be limited to those permitted in the "MX2" Mixed Use District per Table 135-2.22-1.

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 PlanDSM future land use designation or rezoning of the Property to Limited 'MX3' Mixed Use District 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 601 Army Post Road and 6302 Southwest 6th Street to Community Mixed Use within a Community Node 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 final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

FORM APPROVED: 
Judy K. Parks-Kruse
Assistant City Attorney

(21-2020-4.29)
(ZON2020-00152)

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



December 29, 2020

Date January 25, 2021

Agenda Item 61

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 17, 2020 meeting, the following action was taken regarding a request from February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer) to rezone property located at 6302 Southwest 6th Street from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed Use District allow the property to be developed for Animal Service, Veterinary and Boarding uses.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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) the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part C)

APPROVAL of rezoning the subject property from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX2” District, and Boarding uses as defined by the Animal Service Use Category.
2. Accessory structures shall be limited to those permitted in the “MX2” Mixed Use District per Table 135-2.22-1. (ZON2020-00152)

Written Responses

4 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.

Part C) Staff recommends approval of rezoning the subject property from “N3a” Neighborhood District and “MX2” Mixed Use District to “MX3” Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the “MX2” District, and Boarding uses as defined by the Animal Service Use Category.
2. Accessory structures shall be limited to those permitted in the “MX2” Mixed Use District per Table 135-2.22-1.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to clear the site and construct a veterinarian clinic with an outdoor dog run. They currently operate at 6301 SW 9th Street and have outgrown that location.
2. **Size of Site:** 1.751 acres.
3. **Existing Zoning (site):** “N3a” Neighborhood District and “MX2” Mixed Use District.
4. **Existing Land Use (site):** One household dwelling and vacant land.
5. **Adjacent Land Use and Zoning:**

North – “N3a”; Uses are one household dwellings.

South – “MX2”; Uses are commercial.

East – “MX2”; Use is a senior housing development.

West – “MX2”; Use is a self-service carwash.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of Army Post Road. A mix of commercial and residential uses are located along the corridor. The neighborhood to the north predominately consists of one household dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fort Des Moines Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on November 30, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (20 days prior to the hearing) and December 7, 2020 (10 days prior to the hearing) to the Fort Des Moines 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 Fort Des Moines Neighborhood Association mailings were sent to Scott Durham, 301 E. Kenyon Avenue, Des Moines, IA 50315.

8. **Relevant Zoning History:** N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Most of the site is designated Community Mixed Use. A portion of the site with frontage on Lally Street is designated Low Density Residential. The entire site is located within a Community Node that is centered on the Army Post Road and Southwest 9th Street intersection.
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:** Most of the site is designated as Community Mixed Use on the Future Land Use Map. A portion of the site with frontage on Lally Street is designated as Low Density Residential. The entire site is located within a Community Node. The “MX2” and “MX3” Districts can both be found in conformance with the Community Mixed Use designation. Therefore, the Future Land Use Map only needs to be amended where the site is designated for Low Density Residential for the

proposed rezoning to be found in conformance with PlanDSM. These future land use designations are described by PlanDSM as follows:

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

Community Mixed Use: 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 customers.

Community Node: Mid-size centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities may occur.

Most of the subject property is currently zoned “MX2” District. The Zoning Ordinance describes this district as “intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” Building types allowed in this district by Chapter 135 include the Storefront, Civic Building and Principal-Use Parking Structure.

The Zoning Ordinance describes the “MX3” District as “intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobile.” This district accommodates higher intensity commercial use at a smaller scale. Building types allowed in this district by Chapter 135 include the Storefront, Commercial Cottage, Commercial Center, Principal-Use Parking Structure, and Civic Building.

The “MX3” District allows some industrial uses, and vehicle sales and service uses by right that are prohibited or are conditional uses in the “MX2” District. Staff recommends that any rezoning to the “MX3” District only allow the added ability to have an animal boarding use plus the same Permitted and Conditional Uses in common with the “MX2” District as restricted by the “MX2” District. Also, Staff recommends that accessory structures should only be those allowed in the “MX2” District.

- 2. Separation Requirements:** Section 134-3.5.2 of the Zoning Ordinance requires outdoor boarding and outdoor exercise runway area to be separated by at least 200 feet from a “N” or “NX1” District. The subject property adjoins property that is zoned “N3a” District and is not large enough to provide 200 feet of separation. Therefore, the applicant must obtain a Variance of this requirement from the Zoning Board of Adjustment if they want to pursue having an outdoor run. If they are not able to obtain a Variance an employee would have to exercise dogs using a leash. For a Variance to be granted, the applicant must demonstrate that they cannot yield a reasonable return

from the property and have been deprived of all beneficial or productive use of the subject property without the relief.

- 3. Planning and Design Ordinance:** Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Cory Sharp 604 E Grand Avenue representing FEH Design stated the owners have owned this property for a few years and had plans to build a new facility. Their current practice is a few blocks West on SW 9th Street and have outgrown that facility. There are some existing asphalt paved areas and existing residence on the NE corner of the site that would be removed for water detention and a new parking lot. They are requesting the MX3 zoning as they are finding it difficult to meet the requirements within the MX2 zoning.

Greg Wattier asked if the applicant agrees with staff recommendations?

Cory Sharp stated yes.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Rocky Sposato made a motion for approval of Part A) the proposed rezoning to "MX3" Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node and Part C) **APPROVAL** of rezoning the subject property from "N3a" Neighborhood District and "MX2" Mixed Use District to "MX3" Mixed-Use District subject to the following conditions:

1. Permitted uses shall be limited to those uses allowed in common with the "MX2" District, and Boarding uses as defined by the Animal Service Use Category.
2. Accessory structures shall be limited to those permitted in the "MX2" Mixed Use District per Table 135-2.22-1.

Motion passed: 12-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh

February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer) for the property at 601 Army Post Road and 6302 Southwest 6th Street. The subject property titleholders are Joseph and Deborah Madonia.				File #
				21-2020-4.29
Description of Action	Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Low Density Residential within a Community Node to Community Mixed Use within a Community Node.			
PlanDSM Future Land Use	Current: Community Mixed Use and Low Density Residential. Proposed: Community Mixed Use.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX2" Mixed Use District and "N3a" 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

South Des Moines Vet Center, 601 Army Post Road & 6302 Southwest 6th Street

21-2020-4.29

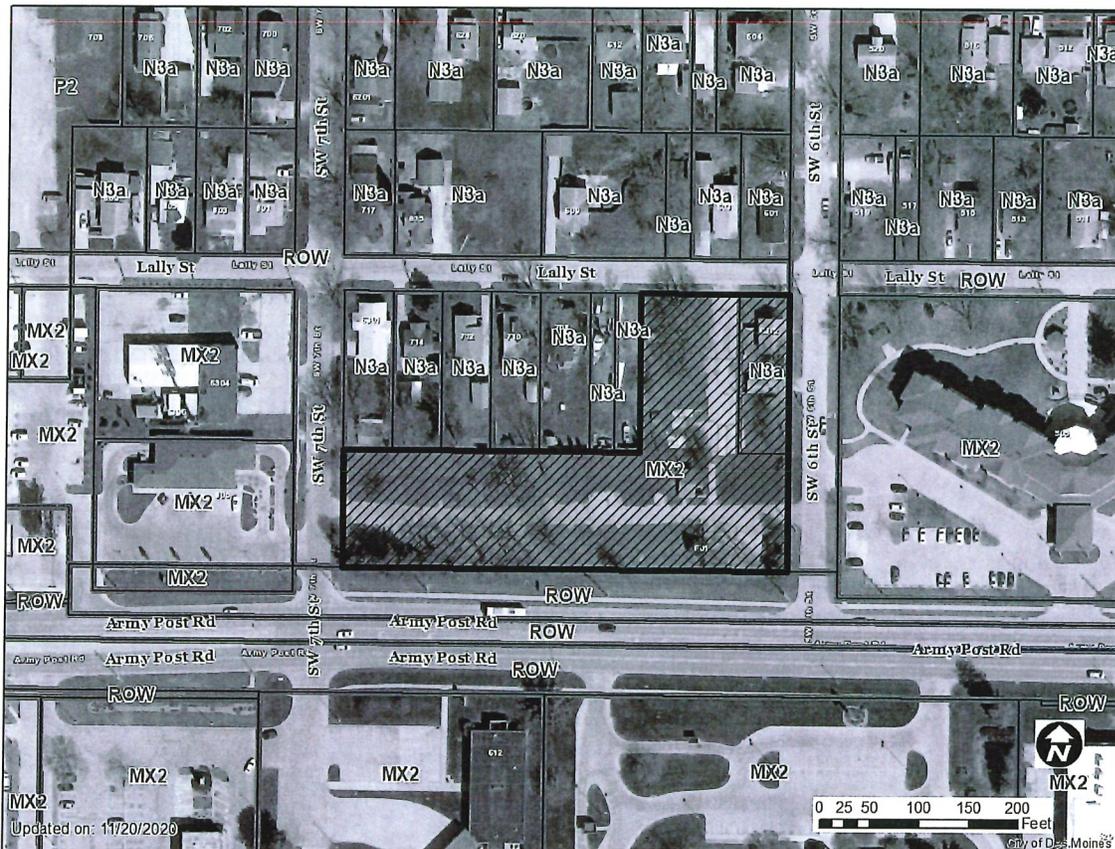


1 inch = 93 feet

February 30th Properties dba South Des Moines Vet Center (Contract Buyers) represented by Jeremy Beyer (officer) for the property at 601 Army Post Road and 6302 Southwest 6th Street. The subject property titleholders are Joseph and Deborah Madonia.				File # ZON2020-00152	
Description of Action	Rezone property from "N3a" Neighborhood District and "MX2" Mixed Use District to "MX3" Mixed Use District allow the property to be developed for Animal Service, Veterinary and Boarding uses.				
PlanDSM Future Land Use	Current: Community Mixed Use and Low Density Residential. Proposed: Community Mixed Use.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"MX2" Mixed Use District and "N3a" Neighborhood District.				
Proposed Zoning District	"MX3" Mixed Use District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	4	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

South Des Moines Vet Center, 601 Army Post & 6302 Southwest 6th Street

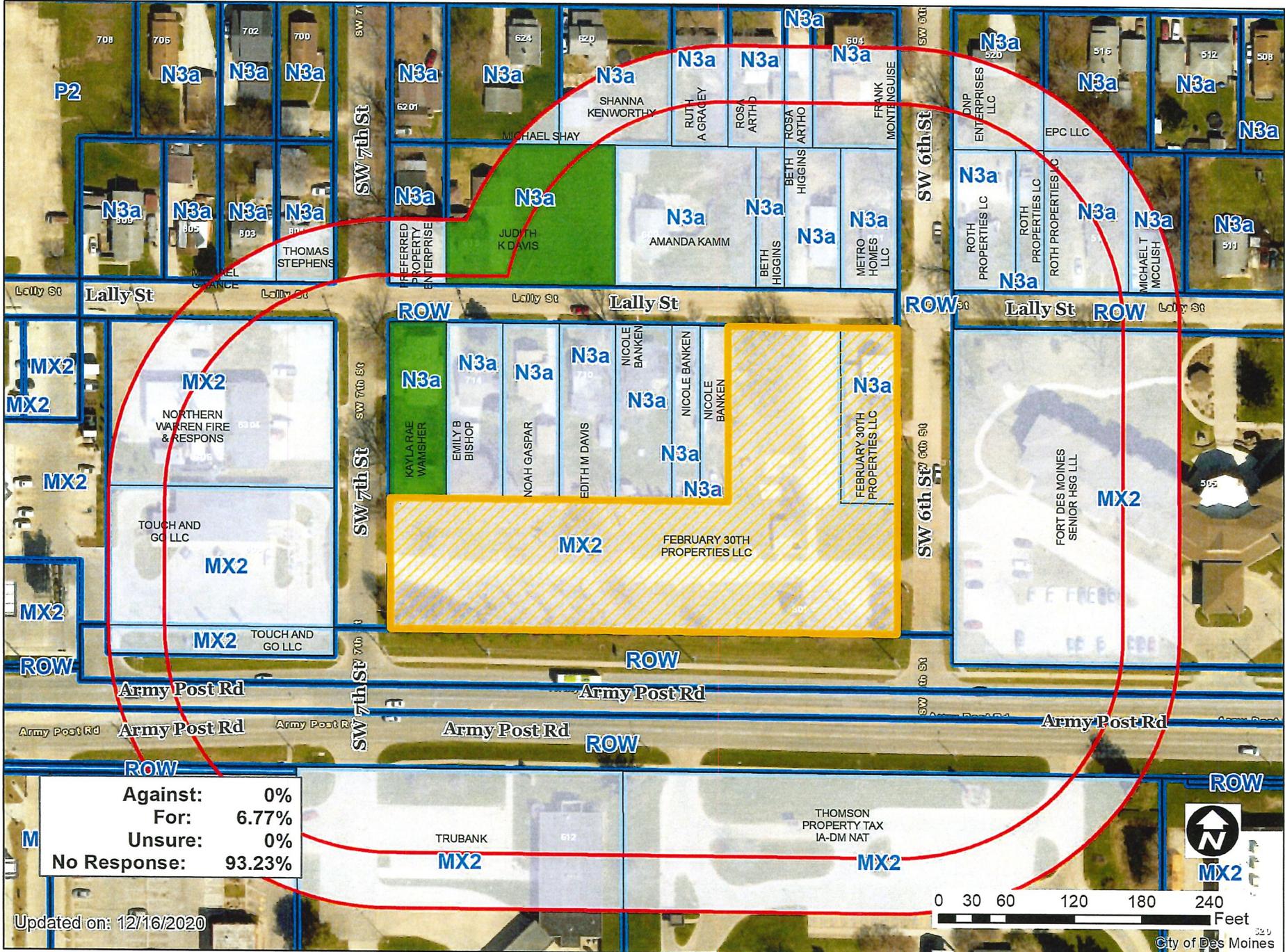
ZON2020-00152



1 inch = 113 feet

South Des Moines Vet Center, 601 Army Post & 6302 Southwest 6th Street

ZON2020-00152



Updated on: 12/16/2020

1 inch = 113 feet

Item: ZON2020-00152 Date: 12/9/2020

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Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: [Handwritten Signature]

Name: Melissa Beyer

Address: 6301 SW 9th St 50315

Staff Use Only

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

Item: ZON2020-00152 Date: 12/9/20

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: Kayla Wamsher

Name: Kayla Wamsher

Address: 10301 SW 7th St.

Staff Use Only

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

Better than a crappy empty lot

61

Item: ZON2020-00152

Date: 12-11-2020

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

Signature: *Michael G Vance*

Name: MICHAEL G VANCE

Address: 809 KALLY ST

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

Item: ZON2020-00152

Date: 12-12-2020

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

Signature: Judith Kay Davis

Name: Judith Kay Davis

Address: 615 SW Lally Dr. Mo. Ia

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

They need more space
