



Date February 22, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM PORTER HARDWARE, INC., TO REZONE PROPERTY LOCATED AT 4207 HUBBELL AVENUE

WHEREAS, on February 8, 2021, by Roll Call No. 21-0189, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 21, 2021, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from Porter Hardware, Inc., (owner), represented by David Porter (officer), to rezone the real property locally known as 4207 Hubbell Avenue (“Property”) from ‘MX3’ Mixed Use District to ‘CX’ Mixed Use District, to allow the property with an existing Retail Sales, General and Vehicle Sales and Rental Equipment Use to expand to a Retail Sales, Large Format with the additional Warehouse and Accessory Outdoor Storage use, which would allow for outdoor storage of materials and equipment on the property, subject to the following condition:

1. That any permitted accessory outside storage occur outside of the front yard or street side yards of the site; and

WHEREAS, on February 8, 2021, by Roll Call No. 21-0189, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on February 22, 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 rezoning; 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 4207 Hubbell Avenue, legally described as:

LOT 14 EXCEPT THE NW 2 FEET, AND WESTERLY 1/2 OF LOT 15, AND EASTERLY 1/2 OF LOT 15 EXCEPT THE NW 2 FEET, AND ALL OF LOT 16, AND LOT 17 EXCEPT THE NW 2 FEET, AND LOT 18 EXCEPT THE NW 184.1 FEET, ALL IN CAPITOL HEIGHTS REPLAT, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

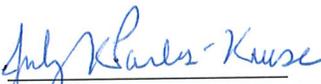
to ‘CX’ Mixed Use District, subject to the condition that any permitted accessory outside storage occur outside of the front yard or street side yards of the site.

Date February 22, 2021

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 rezoning of the Property to 'CX' Mixed Use District subject to the condition that any permitted accessory outside storage occur outside of the front yard or street side yards of the site are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to 'CX' Industrial District subject to the condition that any permitted accessory outside storage occur outside of the front yard or street side yards of the site, 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 (ZON2020-00154)

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

Date February 22, 2021
 Agenda Item 45
 Roll Call # _____

February 2, 2021

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their January 21, 2021 meeting, the following action was taken regarding a request from Porter Hardware, Inc. (owner), represented by David Porter (officer) to rezone property located at 4207 Hubbell Avenue from "MX3" Mixed Use District to "CX" Mixed Use District, to allow the property with an existing Retail Sales, General and Vehicle Sales and Rental (Equipment" use to expand to a "Retail Sales, Large Format with the additional Warehouse and Accessory Outdoor Storage use, which would allow for outdoor storage of materials and equipment on the property.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 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 "CX" Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) **APPROVAL** of rezoning the subject property

from "MX3" Mixed Use District to "CX" Mixed-Use District subject to any permitted accessory outside storage occurring outside of the front yard or street side yards of the site. (ZON2020-00154)

Written Responses

2 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to "CX" Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use.

Part B) Staff recommends approval of rezoning the subject property from "MX3" Mixed Use District to "CX" Mixed-Use District subject to any permitted accessory outside storage occurring outside of the front yard or street side yards of the site.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is seeking to expand the existing retail sales operation with outdoor rental and sales and equipment. In addition to the existing 22,180-square foot retail center and 3,569-square foot shop/warehouse building, the owner proposes to build an additional 5,000-square foot warehouse building. This would total 30,749-square feet of floor area categorizing it as a Retail Sales, General use. The owner would further seek determination by the Development Services Director or the Zoning Board of Adjustment as part of a Type 2 Exception of the minimum 40,000-square foot area, that the use would be classified as a Retail Sales, Large-Format allowing for accessory outdoor storage in a "CX" Mixed Use District.
- 2. Size of Site:** 2.86 acres.
- 3. Existing Zoning (site):** "MX3" Mixed Use District.
- 4. Existing Land Use (site):** Retail Sales, General and Vehicle Sales and Rental (equipment).
- 5. Adjacent Land Use and Zoning:**
 - North** – "MX3" & "RX1"; Uses are Limited Retail Sales and Multiple Household Living.
 - South** – "P2"; Use is a Place of Worship Assembly.
 - East** – "MX3"; Uses are undeveloped land and Professional Offices.
 - West** – "MX3"; Uses are Municipal Fire Station and undeveloped land.
- 6. General Neighborhood/Area Land Uses:** The subject property located on the U.S. Highway 6/Hubbell Avenue corridor. It contains a mix of Commercial and Industrial uses surrounded by mixed densities of Residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Sheridan Gardens Neighborhood. The neighborhood association was notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2020 (22 days prior to the hearing due to New Year Holiday) and January 11, 2021 (10 days prior to the hearing) to the Sheridan Gardens 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 Sheridan Gardens Neighborhood Association notices were mailed to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

- 8. Relevant Zoning History:** The subject property was zoned to “MX3” Mixed Use District as part of the citywide Zoning Ordinance and Map update effective on December 16, 2019.
- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use.
- 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 subject property is designated “Community Mixed Use”. Plan DSM describes this designation as follows:

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.

Based on this designation, the proposed “CX” Mixed Use District zoning would be found in conformance with the Comprehensive Plan. The Zoning Ordinance states that “CX” is intended for nodes and corridors with larger-scale single-use commercial accommodating higher levels of vehicular traffic than “MX” Districts and more intensive commercial uses, especially with outdoor sales and storage. Staff believes the

proposed rezoning is appropriate given the location of the subject property on a high-volume transportation corridor.

2. **Planning and Design Ordinance:** Any redevelopment must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance. The applicant has provided a concept of the development showing a new 5,000-square foot storage building. However, Site Plan development would be subject to formal review under the Code.
3. **Outside Storage:** Per Chapter 134 134-3.9.6, Outdoor storage is permitted in a "CX" District when associated with a large format retail use subject to additional requirements outlined in that section. It would also be subject to provisions in Chapter 135 Section 135-The proposed expansion of the floor area for the site does not bring the total 40,000 square feet of area described for Retail Sales, Large Format in Section 134-8.2.2 as part of any Site Plan development.

With adoption of the proposed zoning amendment, the owner would need to seek a determination of the Development Services Director on whether the proposed development would be found within the use classification for Retail Sales, Large-Format. If that determination would not be made, then the owner would need to seek remedy from the Zoning Board of Adjustment.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Dory Briles made a motion for approval of Part A) the proposed rezoning to "CX" Mixed Use District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Neighborhood Mixed Use and Part B) **APPROVAL** of rezoning the subject property from "MX3" Mixed Use District to "CX" Mixed-Use District subject to any permitted accessory outside storage occurring outside of the front yard or street side yards of the site.

Motion passed: 14-0

Respectfully submitted,



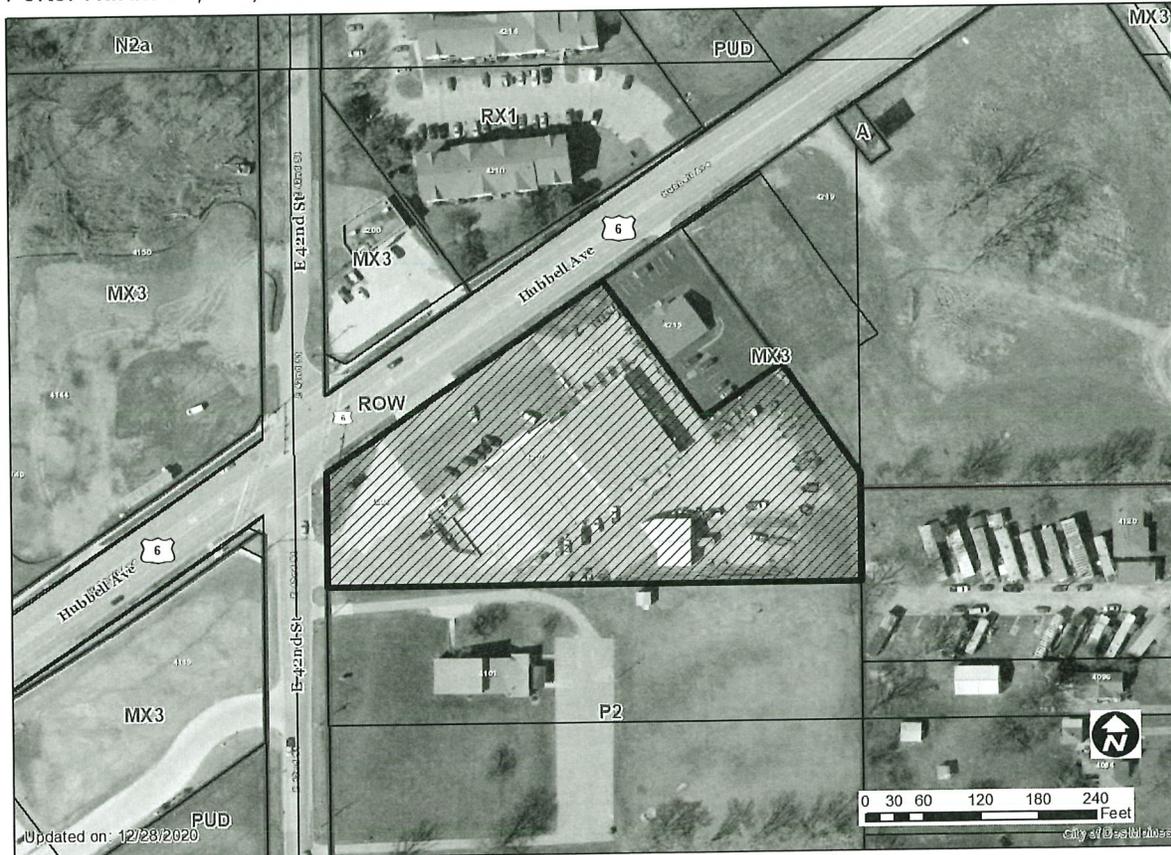
Michael Ludwig, AICP
Deputy Director of Development Services

MGL:tjh

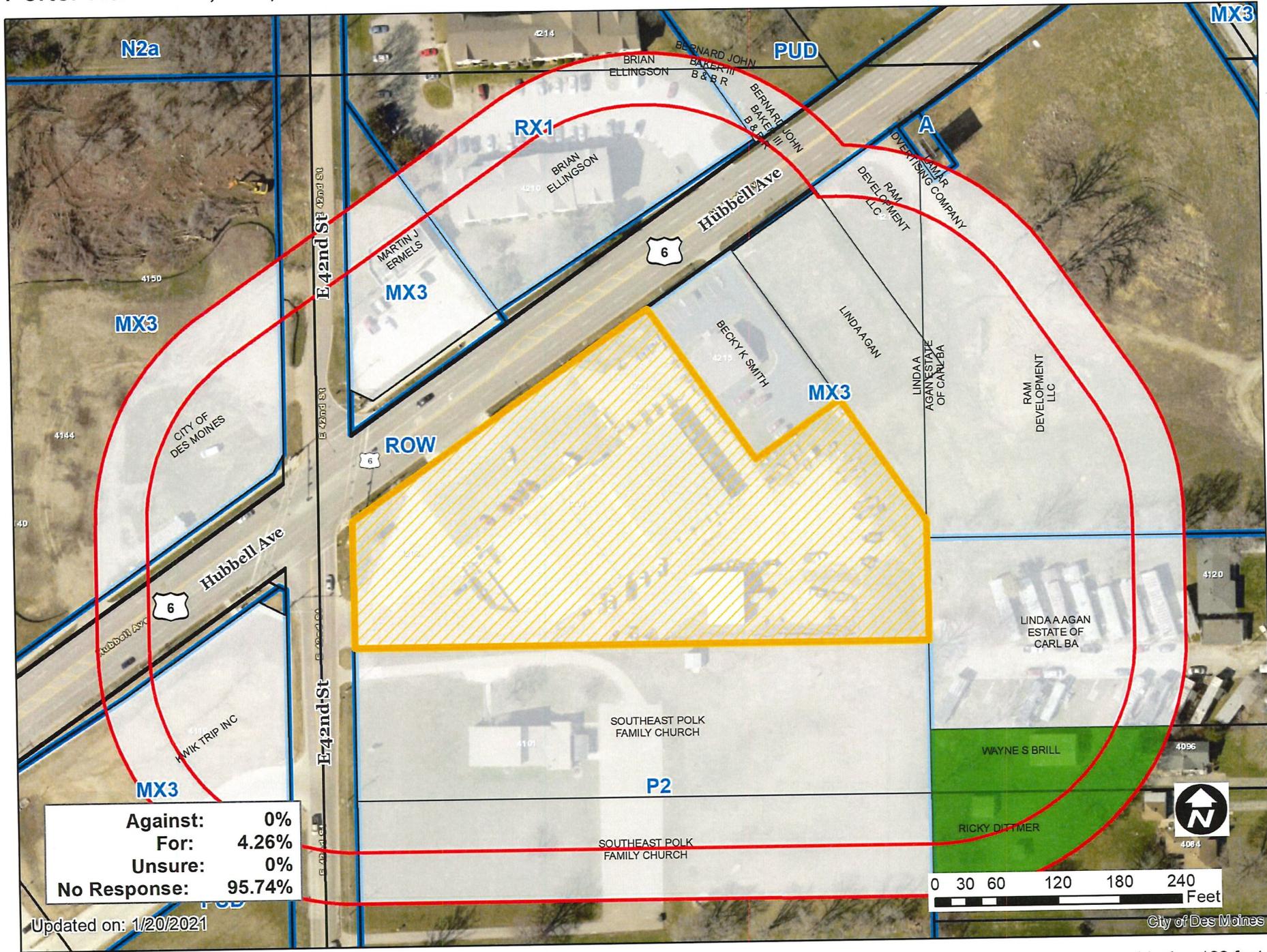
Porter Hardware, Inc. (owner) represented by David Porter (officer) for the property at 4207 Hubbell Avenue.			File #	
			ZON2020-00154	
Description of Action	Rezone property from "MX3" Mixed Use District to "CX" Mixed Use District, to allow the property with an existing Retail Sales, General and Vehicle Sales and Rental (Equipment) use to expand to a Retail Sales, Large Format with the additional Warehouse and Accessory Outdoor Storage use, which would allow for outdoor storage of materials and equipment on the property.			
PlanDSM Future Land Use	Current: Community Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX3" Mixed Use District.			
Proposed Zoning District	"CX" Mixed Use District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	2	0		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Porter Hardware, Inc., 4207 Hubbell Avenue

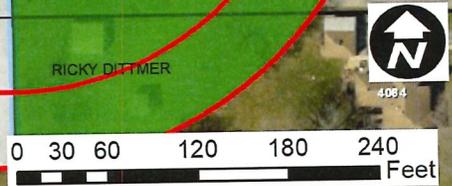
ZON2020-00154



1 inch = 122 feet



Against:	0%
For:	4.26%
Unsure:	0%
No Response:	95.74%



Updated on: 1/20/2021

City of Des Moines

1 inch = 122 feet

45

Item: ZON2020-00154

Date: 1/14/2021

45

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Rick Dittmer

Name: Rick Dittmer

Address: 4084 NE 43rd. Court

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
JAN 19 2021

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

Item: ZON2020-00154

Date: 1/14/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Wayne Brill

Name: Wayne Brill

Address: 4096 N.E. 43rd St.

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
JAN 19 2021

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

