



Date June 28, 2021

**RESOLUTION HOLDING HEARING ON CITY-INITIATED REQUEST TO REZONE
PROPERTY LOCATED AT 2014 AND 2016 EAST OVID AVENUE**

WHEREAS, on June 14, 2021, by Roll Call No. 21-0862, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on June 3, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a City-initiated request to rezone the real property locally known as 2014 and 2016 East Ovid Avenue (collectively “Property”) from P1 Public, Civic and Institutional District to I1 Industrial District, to allow the existing buildings to continue as conforming Professional Office, Warehouse, and Vehicle Maintenance/Repair uses; and

WHEREAS, on June 14, 2021, by Roll Call No. 21-0862, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on June 28, 2021 at 5:00 P.M., in the Council Chambers; 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 2014 and 2016 East Ovid Avenue, legally described as:

-EXCEPT THAT PART LYING WITHIN THE 100 YEAR FLOODPLAIN-, THE SOUTH 223.4 FEET OF THE EAST 200 FEET OF LOT 12, -EXCEPT THE SOUTH 100 FEET OF THE EAST 60 FEET OF SAID LOT 12-, IN OVID HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING APPROXIMATELY 0.57 ACRES (29,947 SQUARE FEET)

from P1 Public, Civic and Institutional District to I1 Industrial District, to allow the existing buildings to continue as conforming Professional Office, Warehouse, and Vehicle Maintenance/Repair uses.

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 I1 Industrial District are hereby overruled, and the hearing is closed.



Roll Call Number

Agenda Item Number

67

Date June 28, 2021

- 2. The proposed rezoning of the Property, as legally described above, to I1 Industrial 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:

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

(ZON2021-00060)

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



June 8, 2021

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 3, 2021 meeting, the following action was taken regarding a City Initiated request for the following regarding the property located at 2014 & 2016 East Ovid Avenue. The subject property is owned by C M Real Estate, LLC.

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Rezone property from "P1" Public, Civic and Institutional District to "I1" Industrial District, to allow the existing buildings to be brought into compliance with their existing Professional Office and Warehouse uses.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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) The proposed rezoning to “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) **Approval** of rezoning the subject property from “P1” Public, Civic and Institutional District to “I1” Industrial District. (ZON2021-00060)

Written Responses

1 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of rezoning the subject property from “P1” Public, Civic and Institutional District to “I1” Industrial District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property is owned by a private property owner (C M Real Estate, LLC). The ongoing use of the property has been a Warehouse and Professional Office Use. The proposed rezoning would be consistent with the PlanDSM future land use designation of Industrial. It would also allow the existing use of the property to continue as a conforming use. Portions of the site are zoned “F” Flood District and are not proposed for rezoning. Notice to surrounding property owners was given to indicate the “F” Flood District area would also be considered for rezoning to “I1” Industrial District, subject to any development within the Federally designated 100-year floodplain complying with the City’s Chapter 50 Floodplain Development Regulations. This would give the Commission and City Council the ability to rezone the entire separately owned property, if needed.
2. **Size of Site:** 24,847 square feet (0.57 acres).
3. **Existing Zoning (site):** “P1” Public, Civic and Institutional District.
4. **Existing Land Use (site):** The subject property is developed with a 4,752-square foot warehouse building and a 2,800-square foot warehouse building. There is also a 2,160-square foot building used for a shop and office to the south within the “F” Flood District portion of the property.
5. **Adjacent Land Use and Zoning:**

North – “F”; Uses is a warehouse and office for a cleaning contractor business.

South – “F”; Use is regional drainage structure.

East – “I1”; Use is a vehicle transmission repair business.

West – “F”; Uses are regional drainage structure and a roofing contractor business.

- 6. General Neighborhood/Area Land Uses:** The subject property is located within a Industrial park area between Delaware Avenue and Interstate 235 south of East Euclid Avenue. The area also has significant public storm water drainage infrastructure including a large regional detention basin facility.
- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood. The neighborhood associations were notified of the June 3, 2021 public hearing by mailing of the Preliminary Agenda on May 14, 2021 and by mailing of the Final Agenda on May 28, 2021. Additionally, separate notifications of the June 3, 2021 hearing for this specific item were mailed on May 14, 2021 (20 days prior to the public hearing) and on May 24, 2021 (10 days prior to the public hearing) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. An additional updated notice was sent on May 25, 2021 to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. This notice showed the entire property for the parcels at 2014 & 2016 East Ovid included in the rezoning area, including land currently zoned “F” Flood District. This would allow the flexibility to for the Commission and City Council to consider rezoning the entire property within the two parcels to “I1” Industrial District.

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 Fairmont Park Neighborhood mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

- 8. Relevant Zoning History:** The City Council rezoned a portion of the requested subject property was from “FW” Floodway District to “M-1” Light Industrial District on May 22, 2016 by Ordinance No. 15,480. The property was the rezoned to “P1” Public, Civic and Institutional District with the citywide Zoning Map update effective December 15, 2019.
- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.
- 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 as “Industrial” on the Future Land Use Map. PlanDSM describes this designation as follows:

INDUSTRIAL

Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.

Additional property within the subject parcels is designated “Park and Open Space” and “Development Control Zone” overlay. Plan DSM describes these designations as follows:

PARKS AND OPEN SPACE

Land or water areas generally free from development. Primarily used for park and recreation purposes but may also indicate private or public open spaces reserved for natural resource conservation.

DEVELOPMENT CONTROL ZONE

Areas that are sensitive to development, such as airport runway protection zones, flood hazard areas, etc.

Applicable portions of PlanDSM Creating Our Tomorrow:

Goal 8

Recognize the value of ecologically sensitive land and natural resources and ensure preservation of these areas for future residents and urban vitality.

LU40: Prohibit development in identified ecologically sensitive and critical areas to limit impacts of construction and land disturbing activities.

LU42: Permit reasonable development of land that addresses environmental constraints and minimizes disturbance of natural habitats.

LU43: Regulate development in flood prone areas to protect from damage to public health, safety, and property.

Staff believes the proposed rezoning, if limited to the areas designated Industrial in the PlanDSM Future Land Use Plan, would be determined in conformance with the Comprehensive Plan.

Rezoning the remaining portion of the parcels from “F” Flood District would not be found in conformance with PlanDSM and would not be appropriate at the fringe of ecologically sensitive land. Staff does not believe that any rezoning of any portion of the property zoned “F” Flood District should occur. Should the Commission find that Industrial Development would be in conformance with the Parks and Open Space and Development Control Zone designations, then Staff would recommend that it be made conditional that any development must be compliant with all floodplain development requirements of Chapter 50 of the City Code.

67

- 2. Engineering Comments:** Any proposed development of the property within the “F” Flood District and corresponding Federal 100-year floodplain would be required to meet all Chapter 50 requirements of the City Code for floodplain development.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Carolyn Jension made a motion for:

Part A) The proposed rezoning to “I1” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) **Approval** of rezoning the subject property from “P1” Public, Civic and Institutional District to “I1” Industrial District.

Motion passed: 10-0

Respectfully submitted,



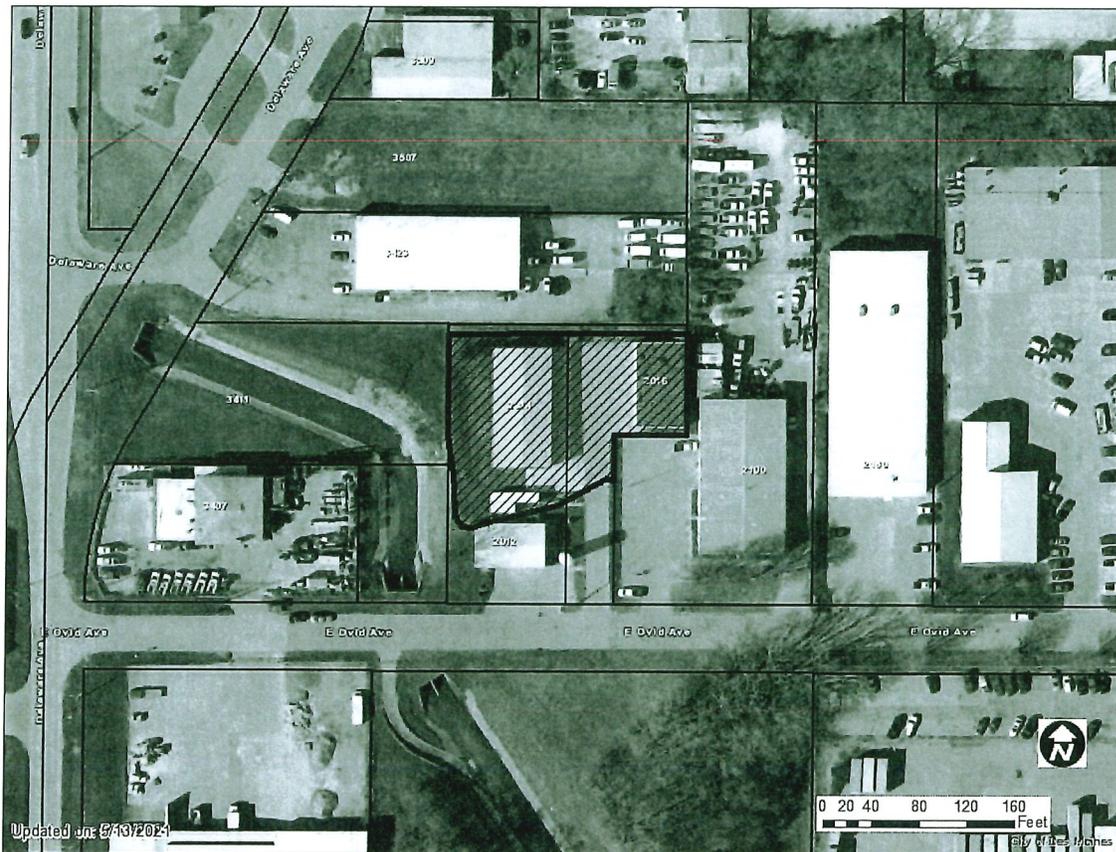
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

City Initiated request for the following regarding the property located at 2014 & 2016 East Ovid Avenue. The subject property is owned by C M Real Estate, LLC.				File # ZON2021-00060	
Description of Action	Rezone property from "P1" Public, Civic and Institutional District to "I1" Industrial District, to allow the existing buildings to be brought into compliance with their existing Professional Office and Warehouse uses.				
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"P1" Public, Civic, and Institutional District.				
Proposed Zoning District	"I1" Industrial District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	1	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

C M Real Estate, LLC, Vicinity of 2014 East Ovid Avenue

ZON2021-00060



1 inch = 93 feet

Item: ZON2021-00060 Date: _____

Please mark one of the following

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

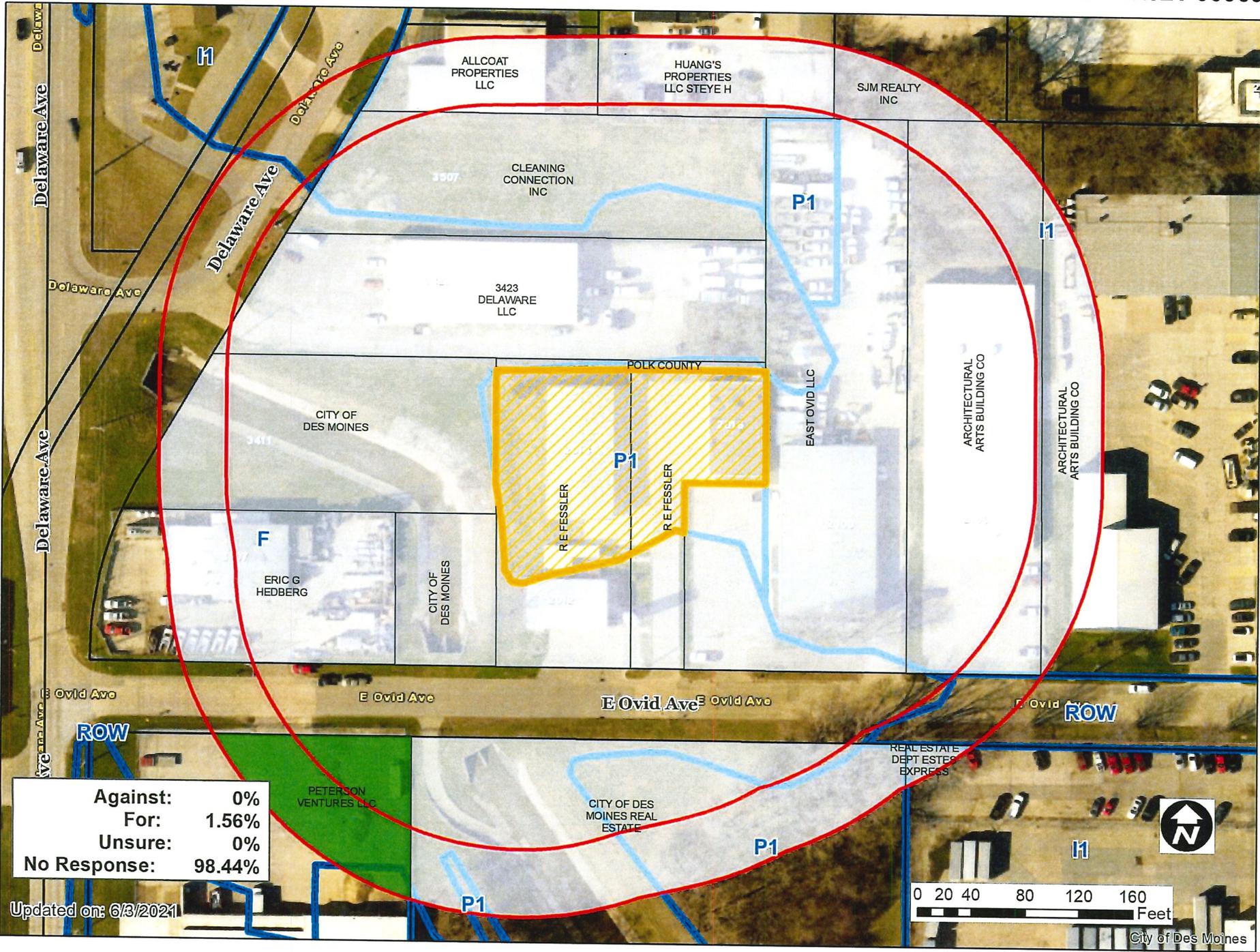
Staff Use Only

Signature: _____

Name: PETERSD VANDERWILLE

Address: _____

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



Against:	0%
For:	1.56%
Unsure:	0%
No Response:	98.44%

Updated on: 6/3/2021



City of Des Moines

1 inch = 93 feet