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**Date** April 4, 2022

**RESOLUTION SETTING HEARING ON REQUEST FROM ANGEL GROFF  
TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO  
REZONE PROPERTY LOCATED AT 2200 EASTON BOULEVARD**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on March 17, 2022, its members voted 10-0 in support of a motion to recommend **DENIAL** of a request from Angel Groff (owner) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 2200 Easton Boulevard (“Property”) from Low Density Residential to Industrial to allow rezoning to “I1” Industrial District to allow use of the property for “Vehicular Maintenance and Repair - Major” use; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on March 17, 2022, its members voted 10-0 in support of a motion to recommend **DENIAL** of a request from Angel Groff (owner) to rezone the Property from ‘N3a’ Neighborhood District to ‘I1’ Industrial District for the above-stated purpose; and

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

LOTS 16 AND 17 IN BLOCK 16 EASTON PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA.

**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 rezoning is to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposal, shall be held at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on April 18, 2022, at which time the City Council will hear both those who oppose and those who favor the proposals.
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.



**Roll Call Number**

.....

**Agenda Item Number**

23

**Date** April 4, 2022

MOVED BY \_\_\_\_\_ TO ADOPT- SECONDED BY \_\_\_\_\_.

APPROVED AS TO FORM:

\_\_\_\_\_  
Judy K. Parks-Kruse  
Assistant City Attorney

(ZON2022-000013; ZON2022-000014)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
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

March 29, 2022

Communication from the City Plan and Zoning Commission advising that at their March 17, 2022 meeting, the following action was taken regarding a request from Angel Groff (owner) to rezone property located at 2200 Easton Boulevard from “N3a” Neighborhood District to “I1” Industrial District, to allow use of the property for “Vehicle Maintenance and Repair – Major” use.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi	X			
Dory Briles				X
Abby Chungath				X
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner				X
Johnny Alcivar	X			
Lisa Howard				X
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen				X
Emily Webb	X			

**APPROVAL** of Part A) Approval of finding the requested rezoning not in conformance with PlanDSM: Creating Our Tomorrow Plan, which designates the property as “Low Density Residential”.

Part B) **Denial** of an amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the subject property from “Low Density Residential” to “Industrial Use”.

Part C) **Denial** of the requested rezoning of the property from “N3a” Neighborhood District to “I1” Industrial District. (ZONG-2022-000013)

## Written Responses

0 in Favor

2 in opposition

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

Part A) Staff recommends that the Commission find the requested rezoning is not in conformance with PlanDSM: Creating Our Tomorrow Plan, which designates the property as “Low Density Residential”.

Part B) Staff recommends denial of an amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the subject property from “Low Density Residential” to “Industrial Use”.

Part C) Staff recommends denial of the requested rezoning of the property from “N3a” Neighborhood District to “I1” Industrial District.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific use not permitted in the “N3a” Neighborhood District.

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

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The requested rezoning would allow use of the property for a autobody repair use, which is considered to be a Vehicle Maintenance and Repair, Major use that requires an “I1” Industrial zoning classification. Use of the property is currently limited to an office use, a retail use, or a tire repair shop business in accordance with a Use Variance of permitted uses in the “R1-60” District, as granted by the Board of Adjustment on July 25, 2018.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a new Use Variance of permitted uses in the “N3a” District from the Board of Adjustment to allow use of the property for a specific use.

2. **Size of Site:** 10,500 square feet (0.24 acre).

3. **Existing Zoning (site):** “N3a” Neighborhood District.

4. **Existing Land Use (site):** The subject property contains a 28-foot by 56-foot (1,568 square feet) building, a 24-foot by 30-foot (855 square feet) building, and a 6,500 square foot parking lot.

5. **Adjacent Land Use and Zoning:**

**North** – “N3a”; Uses are an undeveloped lot and one- household residential.

**South** – “NX1”; Uses are Easton Boulevard and one-household residential.

**East** – “N3a”; Use is one- household residential.

**West** – “P2”; Uses are East 22<sup>nd</sup> Street and religious assembly.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of Easton Boulevard, just to the east of the I-235. The area primarily consists of one-household residential uses with low-intensity commercial uses scattered along Easton Boulevard.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood and within 250 feet of ACCENT Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agendas for the March 3, 2022 Plan and Zoning Commission meeting on February 11, 2022. A Final Agenda for the March 3, 2022 Plan and Zoning Commission meeting was mailed to the neighborhood associations on February 25, 2022 and a Final Agenda for the March 17, 2022 Plan and Zoning Commission meeting was mailed to the neighborhood associations on March 11, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on February 11, 2022 (20 days prior to the March 3, 2022 hearing) and on February 21, 2022 (10 days prior to the March 3, 2022 hearing) to the 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 designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Fairmont Park Neighborhood Association notices were mailed to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317. The ACCENT Neighborhood Association notices were mailed to Kevin Marken, 2109 East 28<sup>th</sup> Street, Des Moines, IA 50317.

The applicant can provide a summary of the neighborhood meeting at the public hearing.

8. **Relevant Zoning History:** Prior to 2012, the subject property contained a vehicle display lot that had legal non-conforming rights to operate in the “R1-60” One-Family Low-Density Residential District. On June 27, 2012, the Zoning Board of Adjustment considered appeals that would have allowed for the expansion of the vehicle display lot on that property. At that time, the Board denied the Variance to allow expansion of a legal non-conforming use in the “R1-60” One-Family Low-Density Residential District and a Variance of 10 feet less than the minimum required ten (10) feet of setback for off-street parking and loading from a property line adjoining a residential district. However, the Board did grant an amended appeal for a Variance of 27.5 feet less than the minimum required 30 feet of setback for off-street parking and loading from street right-of-way property lines in a Residential district, that allowed them to retain paving within 2.5 feet of the front property lines, subject to the following conditions:
  1. Provision of a 2.5-foot paving setback along both Easton Boulevard and East 22<sup>nd</sup> Street, which shall be landscaped with ornamental trees and shrubs in

accordance with a landscaping plan as approved by the Permit & Development Center.

2. All barbed or razor wire on the site shall be removed.
3. All paving encroaching into the public right-of-way, except that necessary for any drive approach or sidewalk, shall be removed, with restoration of the area with sod and curbing.
4. If the preceding conditions are not satisfied prior to November 1, 2012, the site shall be required to provide the otherwise required 30-foot paving setbacks along both Easton Boulevard and East 22nd Street.

On November 3, 2017, the Zoning Enforcement Officer sent a letter to the appellant letting them know that the legal non-conforming rights for a vehicle display lot use on the property ceased since it was determined that the property had been vacant since March 1, 2015. On December 22, 2017, the appellant appealed that determination, but on January 24, 2018, the Zoning Board of Adjustment upheld the determination (ZON2017-00219) that the legal non-conforming rights had ceased.

On April 5, 2018, the City Council denied a request to rezone the property to “C-2” General Retail and Highway-Oriented Commercial District (Roll Call 18-0621).

On May 23, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00073, granted a Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District (Use Variance) and a Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District Use of the property for tire repair shop and retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22nd Street. The approval was subject to the following conditions:

1. Any commercial use of the property shall be limited to a tire repair shop business and shall not occur until a Certificate of Occupancy has been issued for such.
2. Any use of the property for a tire repair shop business shall be in accordance with a Site Plan as approved by the Permit and Development Center.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.
4. There shall be no outdoor storage of any equipment or materials, including but not limited to new or used tires, barrels, or tools.
5. No vehicle shall be kept on the premise for more than 48 consecutive hours.
6. Display of vehicles for sale is prohibited.
7. Outdoor repair and servicing of vehicles is prohibited.
8. Outdoor display of automobile accessories or tires is prohibited.
9. All refuse and trash disposal containers are contained within an enclosure that complies with all Zoning and Site Plan regulations.
10. Automobiles shall only be parked in marked parking spaces in accordance with the approved Site Plan.
11. All landscaping required on the approved Site Plan shall be continuously maintained for the life of the Certificate of Occupancy.
12. Any signage for the business shall be limited to a wall-mounted sign that complies with the sign regulations applicable in a “C-1” District.

13. A copy of the Board's Decision and Order shall be recorded at the appellant's expense to ensure that any future property owners are aware of these conditions.
14. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions of approval.

After the May 23, 2018 approval, the potential tire repair business decided to locate elsewhere so the appellant filed a new application requesting that Docket ZON2018-00073 be amended to allow for additional commercial uses to market the property for more than just a tire repair business use.

On July 25, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00120, granted an amendment to the Variance of the permitted uses in an "R1-60" One-Family Low-Density Residential District and an amendment to the Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District, subject to the following conditions:

1. Any commercial use of the property shall be limited to an office use, retail use, or tire repair shop business and shall not occur until a Certificate of Occupancy has been issued for such.
2. Any use of the property for an office use, retail use, or tire repair shop business shall be in accordance with a Site Plan as approved by the Permit and Development Center.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City's Permit and Development Center.
4. There shall be no outdoor storage of any equipment or materials, including but not limited to new or used tires, barrels, or tools.
5. No vehicle shall be kept on the premise for more than 48 consecutive hours.
6. Display of vehicles for sale is prohibited.
7. Outdoor repair and servicing of vehicles is prohibited.
8. Outdoor display of automobile accessories or tires is prohibited.
9. All refuse and trash disposal containers are contained within an enclosure that complies with all Zoning and Site Plan regulations.
10. Automobiles shall only be parked in marked parking spaces in accordance with the approved Site Plan.
11. All landscaping required on the approved Site Plan shall be continuously maintained for the life of the Certificate of Occupancy.
12. Any signage for the business shall be limited to a wall-mounted sign that complies with the sign regulations applicable in a "C-1" District.
13. A copy of the Board's Decision and Order shall be recorded at the appellant's expense to ensure that any future property owners are aware of these conditions.
14. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions approval.

After the July 25, 2018 approval, the appellant identified a potential tenant that would use the property for the repair of vehicles that would be sold at a different location. Therefore, the appellant filed another application seeking to revise the conditions that currently prohibit such a use.

On September 26, 2018, the Zoning Board of Adjustment, by Docket ZON2018-00177, denied an amendment to the Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District and an amendment to the Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District, to allow use of the property for the repair of vehicles that would be sold at a different location and retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22<sup>nd</sup> Street.

On October 23, 2019, the applicant filed an appeal to amend the Variance of the permitted uses in an “R1-60” One-Family Low-Density Residential District to allow use of the property for the repair of vehicles that would be sold at a different location. The Board found that the conditions, facts, and/or circumstances present at the time of the Board’s previous decision within the past 2 years had not changed. Therefore, the appeal was not considered by the Board.

On December 16, 2019, the subject property was rezoned from “R1-60” One-Family Low-Density Residential District to “N3a” Neighborhood District, as part of the Citywide rezoning established by Ordinance 15,818.

On January 11, 2021, the City Council denied a request to rezone the property from “N3a” Neighborhood District to “MX3” Mixed Use District. Therefore, the applicant was able to submit an application to the Board of Adjustment for a Use Variance, requesting that allowed commercial use of the property be expanded to include a “Vehicle Maintenance/Repair, Minor” use.

On February 24, 2021, the Board of Adjustment, by Docket ZON2021-00006, denied an appeal for a Variance (per City Code Section 134-6.7) of the permitted uses in an “N3a” Neighborhood District, to expand commercial use of the property to include a “Vehicle Maintenance/Repair, Minor” use.

Therefore, the only commercial uses currently allowed on the property are those permitted in accordance with the Use Variance (Docket ZON2018-00120) granted by the Board of Adjustment on July 25, 2018, so long as that use does not change or lapse for a period of at least 6 months.

**9. PlanDSM Future Land Use Plan Designation:** Low-Density Residential.

- 10. Applicable Regulations:** Taking into the consideration of 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 Future Land Use Plan Designation:** The subject property is designated as Low Density Residential, which is described as “areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre”. The proposed “I1” Industrial District would require the land use designation to be amended to Industrial Use, which is described as “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.”

Staff does not believe that this is an appropriate location for the Industrial land use designation. The subject property is located along a portion of Easton Boulevard that contains low-density residential and religious assembly uses. Industrial uses could have a negative impact on adjoining properties and could produce byproducts that require environmental mitigation. The Industrial land use designation is typically located within business park environments not located in close proximity to residential uses. Therefore, Staff recommends denial of both the land use plan amendment and the rezoning.

2. **Site Plan Requirements:** Should the property be rezoned, any change in the commercial use of the property must be in compliance with a Site Plan. This Site Plan must comply with all regulations, including those pertaining to landscaping and stormwater management. Furthermore, any Site Plan to allow vehicle sales or display would also be subject to the design guidelines for vehicle display. These guidelines require that any site used for vehicle display should be at least 0.50 acre in area, which this 0.24-acre site would not satisfy.

## **SUMMARY OF DISCUSSION**

Sreyoshi Chakraborty presented staff report and recommendation.

Johnny Alcivar asked if this request is denied would the applicant still be able to use the property for the same uses that were approved by the Zoning Board of Adjustment a few years ago.

Sreyoshi Chakraborty stated yes. The Zoning Board of Adjustment granted a variance that allows some commercial use of the property, limited to office use, retail use or a tire shop business.

Angel Groff, 2200 Easton Boulevard stated she was approved for a tire shop before, but the tenant went out business. She has somebody interested in using the property for a mechanic shop, body shop or detail shop. She believes this business would be good for the area and she will do everything to make the property look nice for the neighborhood.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Vincent Berardi, 922 Caulder Avenue stated he is here to represent Angel Groff's request to rezone for a mechanic shop so she can pay for insurance, property tax and remodel.

The neighborhood is close to the interstate, it's noisy and only has a few residential houses in that area. A minor mechanic shop or detail shop would be great for this location.

Angel Groff stated approval of a body shop or minor mechanical would really help so she could have money to pay for property tax, insurance, and remodeling.

Chris Draper asked if the building to the east is a residential house or another business.

Jason Van Essen stated 2220 Easton Blvd shows as a single-family residence on the Polk County Assessors website.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page stated this property has been approved for a variance by the Zoning Board of Adjustment to allow some commercial uses. There are other opportunities rather than one that would be inimical to the character of the neighborhood. The neighborhood association is opposed, and the applicant would have the opportunity to return to the Zoning Board of Adjustment for a new variance request if the rezoning is denied. Indicated he supports the staff recommendation.

### **COMMISSION ACTION:**

Will Page made a motion for:

Part A) Approval of finding the requested rezoning not in conformance with PlanDSM: Creating Our Tomorrow Plan, which designates the property as "Low Density Residential".

Part B) Denial of an amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the subject property from "Low Density Residential" to "Industrial Use".

Part C) Denial of the requested rezoning of the property from "N3a" Neighborhood District to "I1" Industrial District.

Motion passed: 10-0

Respectfully submitted,

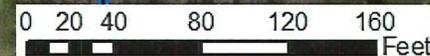


Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh



Updated on: 2/10/2022



City of Des Moines, Information Technology

1 inch = 84 feet



28



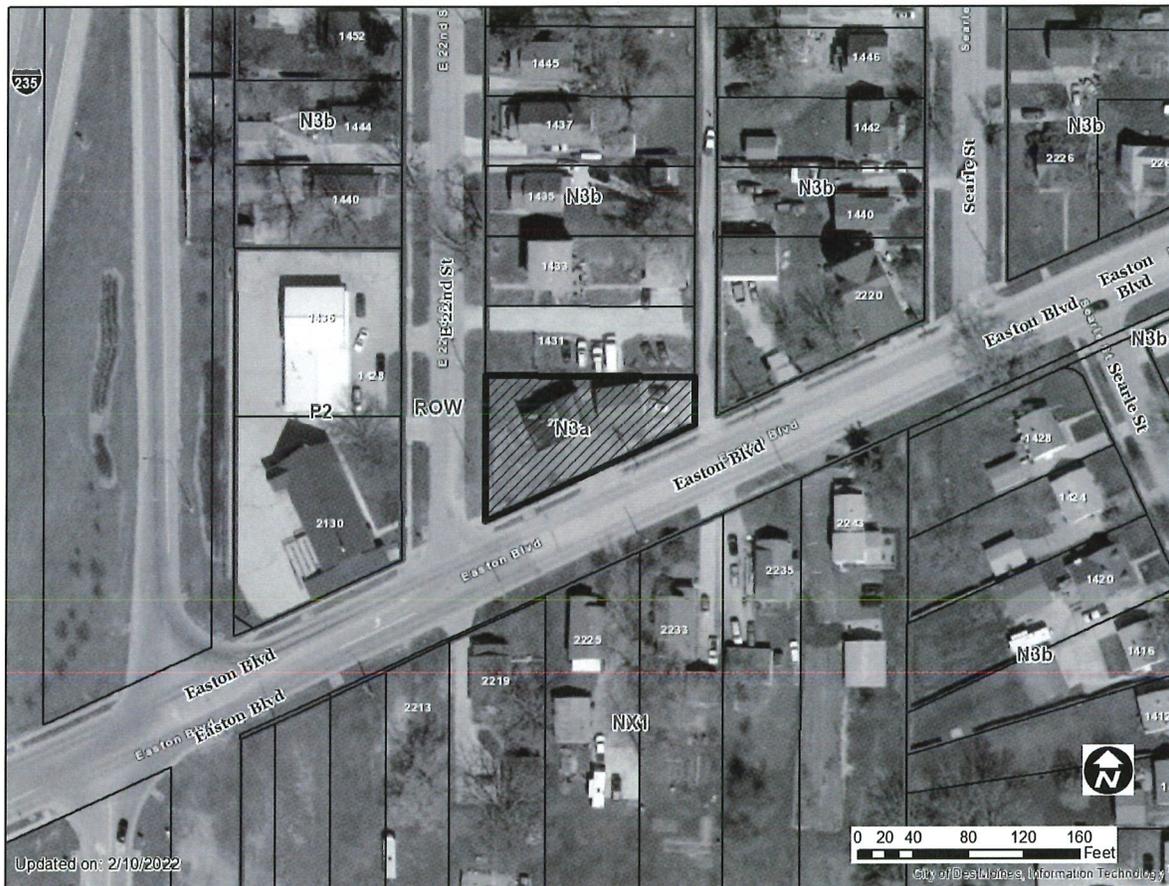






Angel Group, LLC, 2200 Easton Boulevard

ZONG-2022-000013



1 inch = 84 feet

2/25/2022

I visited with Angel Group personal regarding 2200- Easton Blvd. I am not opposed to their usage of the property. The city needs the tax revenue,

Patrick J. McManus

# Neighborhood Fairmont Park Association

From The Desk of Jeff Witte FPNA President

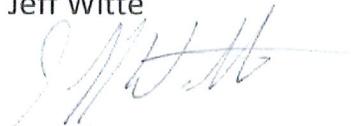
Feb 28th, 2022

Frank A Dunn-Young;

I am writing this letter to oppose the rezoning of the property to industrial from N3a at 2200 Easton Blvd. This is a neighborhood, and we feel the property has little square footage in its boundary to do industrial work. Fairmont Park Neighborhood Association feels it would be detrimental to the area.

Thank You

Jeff Witte



President

**Neighborhood  
Fairmont Park  
Association**

From The Desk of Jeff Witte FPNA President

March 14, 2022

Frank A Dunn-Young;

I am writing this letter to oppose the rezoning of the property to industrial from N3a at 2200 Easton Blvd. This is a neighborhood, and we feel the property has little square footage in its boundary to be rezoned industrial. Fairmont Park Neighborhood Association feels it would be detrimental to the area.

Thank You

Jeff Witte



President

Item: ZONG-2022-000013 Date: 2-24-22

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

MAR 15 2022

Signature: Thomas J Sharp

Name: Thomas J Sharp

Address: 2219 Easton Blvd

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

They never take care of  
place. Not good for resale on  
my property. I've lived here  
42 years & NEVER seen it work.

Item: ZONG-2022-000013

Date: 2-24-22

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Jeff Witte*

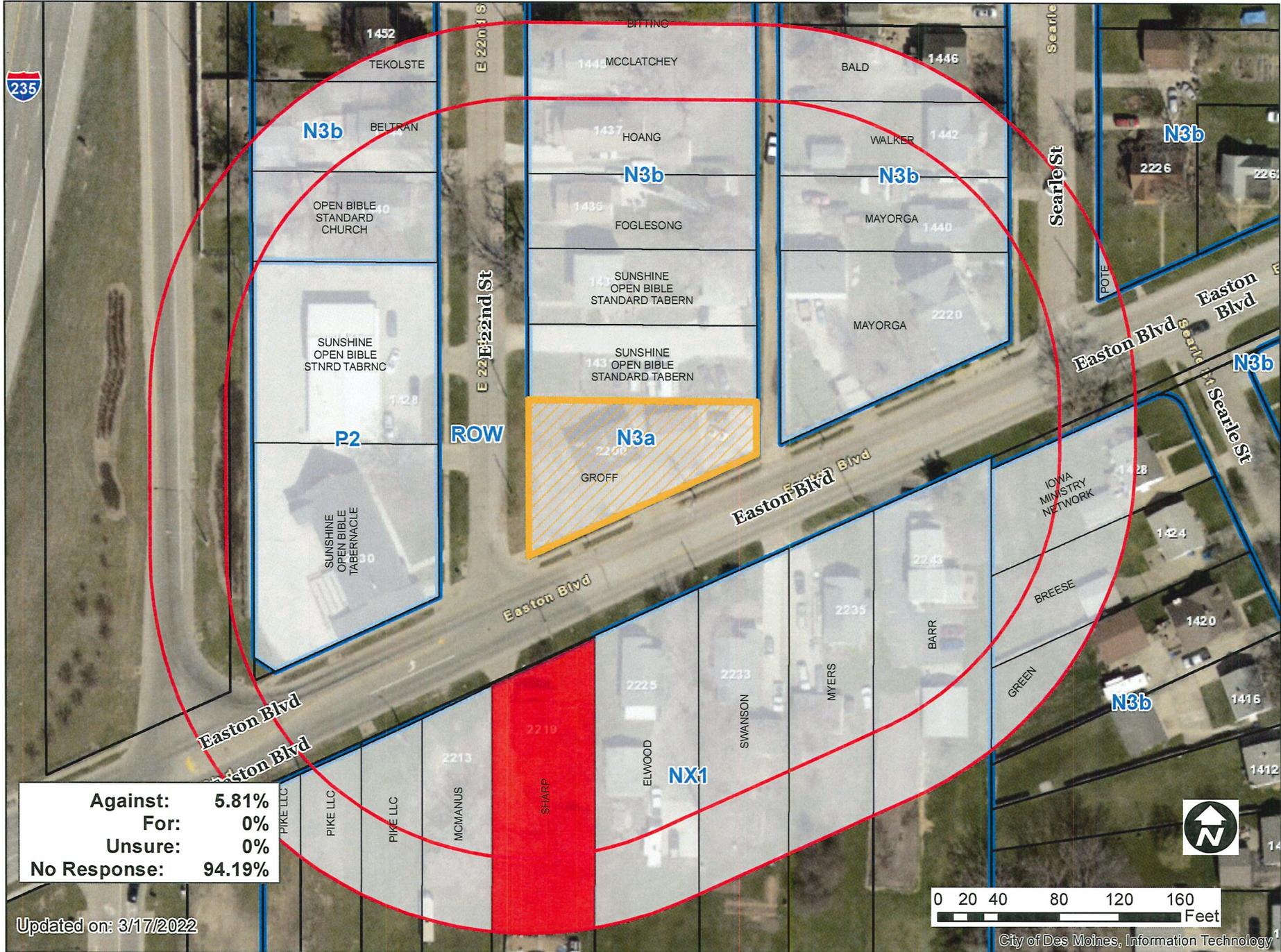
JEFF WITTE

2501 Macon Ave

Staff Use Only
<b>RECEIVED</b>
COMMUNITY DEVELOPMENT
<b>FEB 28 2022</b>

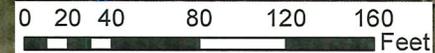
Reason for opposing or approving this request may be listed below:

Fairmont Park is against rezoning this property  
to industrial. This is a neighborhood hood and  
is a neighborhood district.  
Jeff Witte President Fairmont Park Neighbor Assoc.



Against:	5.81%
For:	0%
Unsure:	0%
No Response:	94.19%

Updated on: 3/17/2022



City of Des Moines, Information Technology

1 inch = 84 feet