



.....
Date July 18, 2022

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM ABDELAZIZ ABDELKARIM (OFFICER), FOR PROPERTY LOCATED IN THE VICINITY OF 2711 & 2713 MARTIN LUTHER KING, JR. PARKWAY, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM COMMUNITY MIXED-USE TO INDUSTRIAL USE, AND TO REZONE THE PROPERTY FROM “MX3” MIXED-USE DISTRICT TO “I2” INDUSTRIAL DISTRICT TO ALLOW THE USE OF THE PROPERTY AS AN AUTO RECYCLING/JUNK AND SALVAGE YARD BUSINESS

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 16, 2022, its members voted 12-0 in support of a motion to recommend **DENIAL** of a request from Abdelaziz Abdelkarim (officer), for property located in the vicinity of 2711 & 2713 Martin Luther King, Jr. Parkway, to Amend PlanDSM Creating Our Tomorrow Plan to Revise the Future Land Use Classification from community mixed-use to industrial use, to rezone the Property from “MX3” mixed use district to “I2” industrial district, to allow the use of the property as an auto recycling/junk and salvage yard business, and determined the requested rezoning is not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan; and

WHEREAS, the Property is legally described as follows:

Lot 3 (except the West 7 feet thereof) of Lambert Place, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, on June 27, 2022, by Roll Call No. 22-0998, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing on July 18, 2022, at 5:00 p.m., at the City 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 proposals; and

WHEREAS, in accordance with said notice, those interested in said proposals, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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 and rezoning are hereby overruled, and the hearing is closed.

Alternative A



Roll Call Number

Agenda Item Number

57

Date July 18, 2022

MOVED by _____ and Seconded by _____ to adopt and **DENY** the proposed amendment to the PlanDSM: Creating Our Tomorrow Comprehensive Future Land Use Plan designation and rezoning.

Alternative B

MOVED by _____ and Seconded by _____ to continue the public hearing until August 8, 2022, at 5:00 p.m. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and to direct the City Manager and Legal Department to prepare the necessary legislation to **APPROVE** the proposed PlanDSM Comprehensive Future Land Use Plan amendment from community mixed-use to industrial use and **APPROVE** the proposed rezoning from "MX3" mixed use district to "I2" industrial district, subject to conditions acceptable to the City and the owner(s).

NOTE: Affirmative votes of three-fourths of the council members who are not disqualified by reason of a conflict of interest are required to approve the proposed rezoning due to Plan and Zoning's Recommendation of Denial. Des Moines City Code §134-6.3.10 & Iowa Code §362.6

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Lisa A. Wieland

Lisa A. Wieland
Assistant City Attorney

(ZONG-2022-000023)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Acting City Clerk



Date July 18, 2022
 Agenda Item 57
 Roll Call # _____

June 22, 2022

Communication from the City Plan and Zoning Commission advising that at their June 16, 2022 meeting, the following action was taken regarding a request from Fur Generation, LLC (owner) represented by Abdelaziz Abdelkarim (officer) to rezone property located in the vicinity of 2713 MLK Parkway and 2711 MLK Parkway from “MX3” Mixed Use District to “I2” Industrial District to allow the use of the property as an auto recycling/ junk and salvage yard business.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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			
Todd Garner	X			
Johnny Alcivar	X			
Justyn Lewis	X			
Carolyn Jenison	X			
William Page				X
Andrew Lorentzen	X			
Emily Webb	X			

APPROVAL of Part A) The proposed rezoning be found not in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan, which designates the property as Community Mixed-Use.

Part B) **Denial** of the request to amend the PlanDSM future land use designation from Community Mixed Use to Industrial Use, since the Industrial designation should be focused in areas of the city that are already designated for those types of uses.

Part C) **Denial** of the rezoning of the property from “MX3” Mixed-Use District to “I2” Industrial District to allow the use of the property as an auto recycling/ junk and salvage yard business.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan, which designates the property as Community Mixed-Use.

Part B) Staff recommends denial of the request to amend the PlanDSM future land use designation from Community Mixed Use to Industrial Use, since the Industrial designation should be focused in areas of the City that are already designated for those types of uses.

Part C) Staff recommends denial of the rezoning of the property from “MX3” Mixed-Use District to “I2” Industrial District to allow the use of the property as an auto recycling/ junk and salvage yard business.

Written Responses

0 in Favor

2 in opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to use the property for an auto recycling/ junk and salvage yard business, in addition to auto repair and sales. The proposed use is only permitted in the to “I2” Industrial District.
2. **Size of Site:** 0.85 Acres (37,026 square feet).
3. **Existing Zoning (site):** “MX3” Mixed-Use District.
4. **Existing Land Use (site):** The subject property is used for automobile display with sales office auto repair and warehousing. There is a billboard on the southern edge of the parcel and a communications tower on the eastern edge of the parcel. The uses in the general vicinity of the site are predominantly higher intensity commercial along the MLK Parkway corridor.
5. **Adjacent Land Use and Zoning:**
 - North** – “MX3”; Uses are Gus Farms wholesale food distribution with accessory offices and accessory retail grocery.
 - South** – “MX3”; Uses are open space and Rainsoft home water treatment systems sales office and distribution warehouse.
 - East** – “P2”; Uses are off-street parking for Des Moines Public Schools bus drivers and Prospect Park
 - West** – “N3b” and “MX3”; Use is undeveloped vacant land.

6. **General Neighborhood/Area Land Uses:** The subject property is along the east side of the Martin Luther King, Jr. Parkway commercial corridor between Euclid Avenue and Hickman Road. The area includes a mix of light industrial, commercial, and office uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Prospect Park Neighborhood Association. All recognized neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on May 27, 2022 and by mailing of the Final Agenda on June 10, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on May 27, 2022 (20 days prior to the public hearing) and June 6, 2022 (10 days prior to the public hearing) to the Prospect Park 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 Prospect Park Neighborhood mailings were sent to William Mark Gordon, 2400 26th Street, Des Moines, IA 50310.

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

8. **Relevant Zoning History:** On September 27, 1999, the western 100 feet of the subject property was rezoned from "M-3" Limited Industrial to "C-2" General Retail and Highway-Oriented Commercial District, which allowed for a vehicle display lot use subject to the following conditions:

- A) The entire area upon the Property used for parking, loading and vehicle storage shall be paved.
- B) Any use of the Property for motor vehicle display or sales shall comply with the requirements applicable to the creation of a new automobile display or sales operation under the "C-2" District regulations, including landscape setbacks and wheel barriers where necessary. (*Note: this was prior to 2001 adoption of design guidelines for Site Plan review of vehicle display lots.*)

On May 1, 2008, the Plan & Zoning Commission held a public hearing on a request to rezone the property from Limited "C-2" General Retail and Highway Oriented Commercial District and "M-3" Limited Industrial District to "M-1" Light Industrial District. The Commission recommended approval of this request, subject to the following conditions:

- A. Prohibit the use of the property for adult entertainment business, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, taverns and night clubs, any "M-1" District permitted use that is not conducted completely within the confines of a building.
- B. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause it to come into conformance with all applicable building codes with issuance of Certificate of Occupancy and shall cause it to come into conformance with the Des Moines'

Landscape Standards as they are applied to “C-2” Districts in accordance with an approved Site Plan.

- C. Any expansion, alteration, or improvement to the existing vehicle display lot use of the property shall cause it to conform to a Site Plan reviewed by the Plan and Zoning Commission under the prevailing design guidelines for vehicle display lots.
- D. Conformance to the current C-2 standards for auto lot use on the front portion of the property.
- E. Removal of the billboard based upon the terms of the lease.
- F. Provision of perimeter striping to indicate where the vehicles can be parked.
- G. Provision of a significant barrier on the south such as chains and bollards or other barriers as approved by the Community Development Director that would prevent parking in the grass.

The applicant withdrew this request prior to the City Council’s public hearing.

In 2010, the applicant sought to rezone property from Limited “C-2” General Retail and Highway Oriented Commercial District and “M-3” Limited Industrial District to “C-2” General Retail and Highway-Oriented Commercial District to allow vehicle repair and vehicle sales and display businesses.

On November 8, 2010, the City Council, by Ordinance 14,969, rezoned the subject property from Limited “C-2” General Retail and Highway Oriented Commercial District and “M-3” Limited Industrial District to “C-2” General Retail and Highway-Oriented Commercial District to allow vehicle repair and vehicle sales and display businesses. This rezoning was subject to the following conditions:

- A. Prohibit the use of the property for adult entertainment businesses, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, taverns and night clubs.
- B. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause the entire site to have to come into conformance with all applicable building codes with issuance of a Certificate of Occupancy.
- C. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause the entire site to conform with a Site Plan in accordance with all current site plan requirements.
- D. Any use of the property for a vehicle display lot shall cause the entire vehicle display lot to conform with a Site Plan reviewed by the Plan and Zoning Commission under the design guidelines for vehicle display lots.
- E. Removal of the existing off-premises advertising sign (billboard) based upon the terms of the lease.
- F. A copy of the current billboard lease must be supplied to Zoning Enforcement staff upon approval of rezoning.
- G. Stormwater management for any Site Plan shall be designed to meet current standards applicable to site areas over an acre. (Including water quantity and water quality).

On December 16, 2019, the property was rezoned “MX3” Mixed Use District as part of

the citywide rezoning.

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. Planning and Design Ordinance:** Any construction or change in use must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (City Code Chapter 135). Furthermore, a Site Plan and building elevations would be required for any proposed additions or modifications before the property can be legally occupied by the proposed use.
- 2. PlanDSM Creating Our Tomorrow:** The applicant has requested the property be rezoned to "I2" Industrial District in order to allow an auto recycling/ junk and salvage yard business, in addition to auto repair and sales.

PlanDSM designates the subject property as "Community Mixed Use". The proposed "I2" Industrial District is not consistent with this land use designation, which PlanDSM describes 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.

In order for the proposed rezoning to "I2" District to be in conformance with PlanDSM, the future land use designation must be amended to "Industrial".

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.

The Zoning Ordinance states that the "I2 District is intended for general and higher intensity industrial uses, as well as warehousing and transportation terminals. Building types allowed in this district include the General Building, Workshop/Warehouse, Civic Building, and Principal-Use Parking Structure.

Staff believes that industrial uses should be located in areas of the City that are already designated for those types of uses. The subject property is located along the Martin Luther King, Jr. Parkway commercial corridor in an area that is predominantly commercial, with some warehouse uses. The subject property is also adjacent to environmentally sensitive areas, including parkland and open space. Therefore, this is not an appropriate location for intensive industrial uses and is not compatible with other surrounding uses. If rezoned to "I2" District, allowed industrial uses could have a significant negative impact on adjoining properties.

SUMMARY OF DISCUSSION

Sreyoshi Chakraborty presented staff report and recommendation.

Mamook Koko, Owner of Economical Auto Sales, 4031 39th Place stated that in the state of Iowa, auto dealerships need to have a recycling license that allow them to purchase more than 6 cars from auction. Once they receive a car from auction, they are taken to a body shop for body repair work and then brought back for brake pad and oil changes before being placed on the lot for sale.

Justyn Lewis asked if this would be a salvage yard.

Mamook Koko stated no, the recycling license will allow him to buy more than 6 cars a year.

Justyn Lewis asked if there is city code that restricts him to a certain number of cars on the lot.

Mamook Koko stated there is no city code. Copart auctions only allows you to purchase 6 cars a year under your name.

Jason Van Essen stated he is seeking a recycling license through the state and the magnitude that comes with the licenses is moving beyond auto sales.

Chris Draper asked if there is currently auto repair happening on site.

Mamook Koko stated brake pads and oil changes are the only thing done on site.

Chris Draper asked if the scope of work currently done on site would change with the recycling license.

Mamook Koko stated no.

Jason Van Essen stated the rezoning would allow a much broader spectrum of work to occur on site, which is why staff is recommending denial of the request.

Chris Draper asked who proposed the change in zoning if the scope of work currently happening would not change with this rezoning.

Jason Van Essen stated for the state to grant him the recycling license, the city has to sign off saying he has the appropriate zoning for that license.

Abby Chungath asked if other business with a recycling license within the city are located in a I1 or I2 district.

Jason Van Essen stated they would be located in a I2 district and would also need a conditional use approval from the Zoning Board of Adjustment.

Leah Rudolphi asked if a conditional use approval is needed on top of the I2 zoning.

Jason Van Essen stated yes, most uses within an I2 district are conditional uses as it provides an extra layer of review and oversight for the more impactful uses within the city.

Carolyn Jension asked if they could seek a conditional use if the rezoning is denied.

Jason Van Essen stated if the rezoning is denied, the alternative would be a use variance.

Emily Webb asked if a use variance would allow the applicant to be granted the recycling license.

Mamook Koko stated yes, that is his preferred method as he doesn't want to see this property turn into a recycling center if he was to sell it in the future.

Chris Draper asked if the use variance is most beneficial for him if the rezoning is denied.

Mamook Koko stated yes.

Justyn Lewis asked how long he has been in business.

Mamook Koko stated 5 years.

Justyn Lewis asked what would happen to the use variance if he was to sell the property.

Jason Van Essen stated use variances run with the land but is tied specifically to the business model so only a business operated just like the applicants could take over the property.

Justyn Lewis asked if MX3 is the proper zoning for what is currently happening on site.

Jason Van Essen stated yes, MX3 is the most auto oriented zoning district and allows the current use.

Justyn Lewis asked where he plans to store all the vehicles he buys from auction.

Mamook Koko stated in their garage.

Justyn Lewis asked if the garage is located at 2711 Martin Luther King Parkway.

Mamook Koko stated correct.

CHAIRPERSON OPENED THE PUBLIC HEARING

Doug (*last name inaudible*), representing Agape Pregnancy Resource Center, 2550 MLK stated they fully support this business and believe a use variance would be the best option. They are opposed to rezoning this site to industrial.

Pastor Tammy Harris, 4260 NW 6th Avenue stated she is opposed to the industrial rezoning but would have no concerns with the applicant seeking a use variance.

Zakiya Jenkins, 2643 Beaver Ave #171 stated this is a low-income area and a salvage yard is not in conformance with PlanDSM. This area needs more food and health options as it is one of the unhealthiest zip codes in the city.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Justyn Lewis made a motion for:

Part A) The proposed rezoning be found not in conformance with the PlanDSM: Creating Our Tomorrow Comprehensive Plan, which designates the property as Community Mixed-Use.

Part B) Denial of the request to amend the PlanDSM future land use designation from Community Mixed Use to Industrial Use, since the Industrial designation should be focused in areas of the city that are already designated for those types of uses.

Part C) Denial of the rezoning of the property from "MX3" Mixed-Use District to "I2" Industrial District to allow the use of the property as an auto recycling/ junk and salvage yard business.

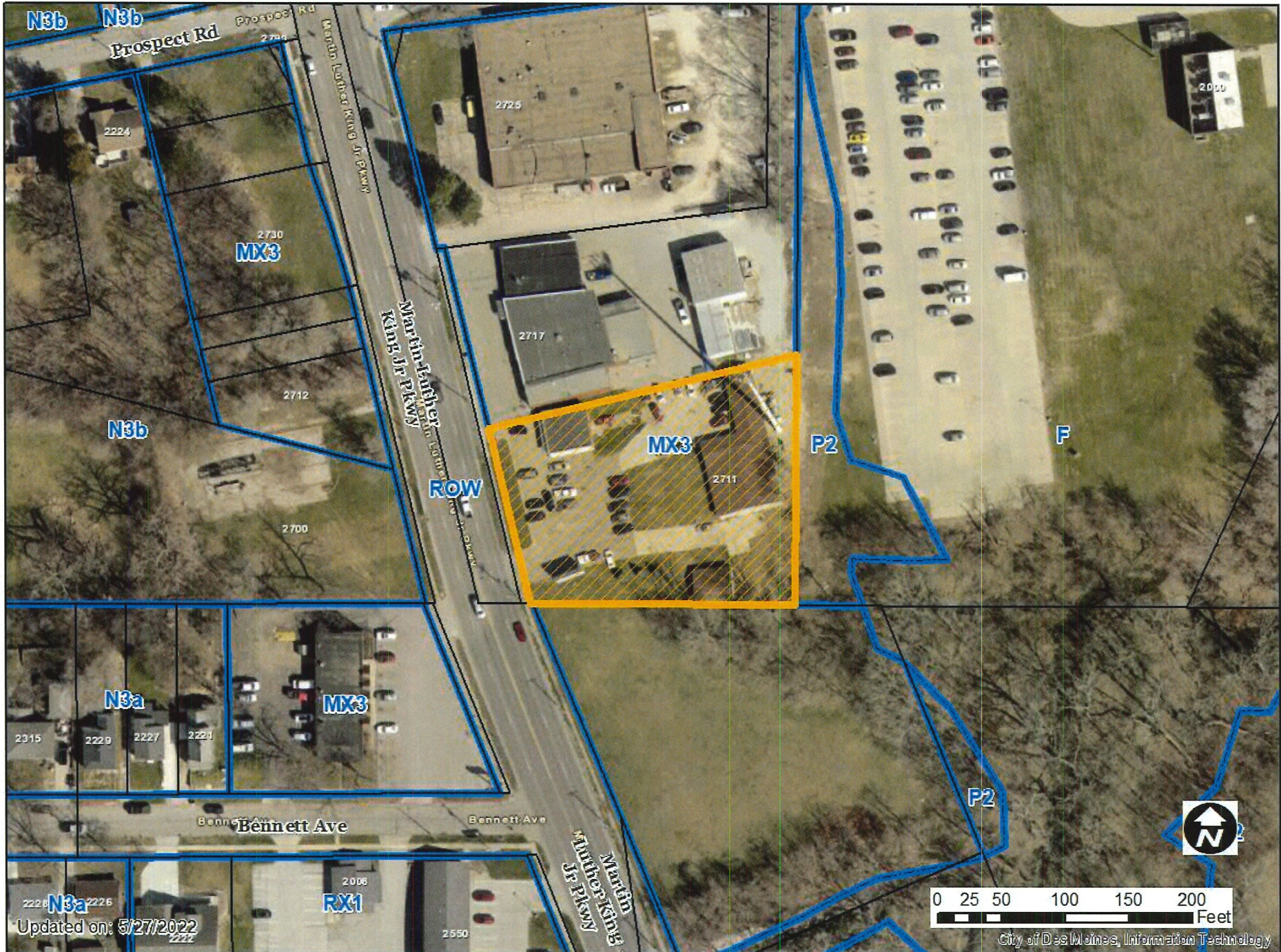
Motion passed: 12-0

Respectfully submitted,



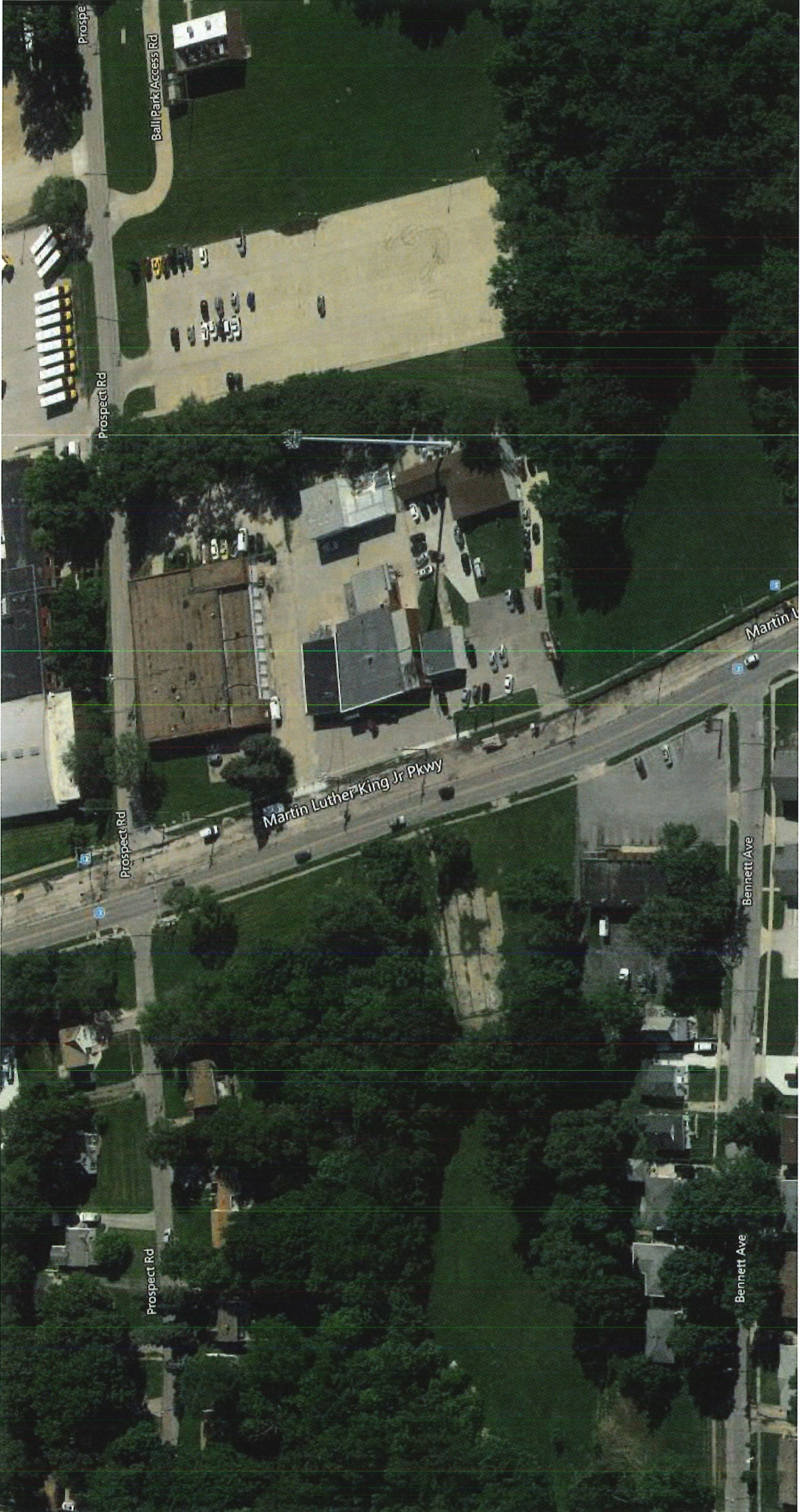
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



Updated on: 5/27/2022

1 inch = 100 feet



Prospect

Ball Park Access Rd

Prospect Rd

Prospect Rd

Prospect Rd

Martin Luther King Jr Pkwy

Martin L

Bennett Ave

Bennett Ave











Did someone say coffer?
FREEDOM BLEND COFFEE
2329 HICKMAT >>>>

WE'RE LOCAL

No Parking sign

Item: ZONG-2022-000026

Date: 6/10/22 57

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Lea Simpson

Name: Leanna Simpson

Address: 2550 MLK PRKWY JR

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

JUN 13 2022

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

Property devaluing • Safety with increased traffic
large equipment • Minimizing our collective efforts for
neighborhood revitalization • Overall concerns of
approving industrial in a residential & commercial neighborhood

Item: ZONG-2022-000026

Date: 6-10-2022

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Kenneth Brewer

Name: Kenneth Brewer

Address: 2224 Prospect Rd

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

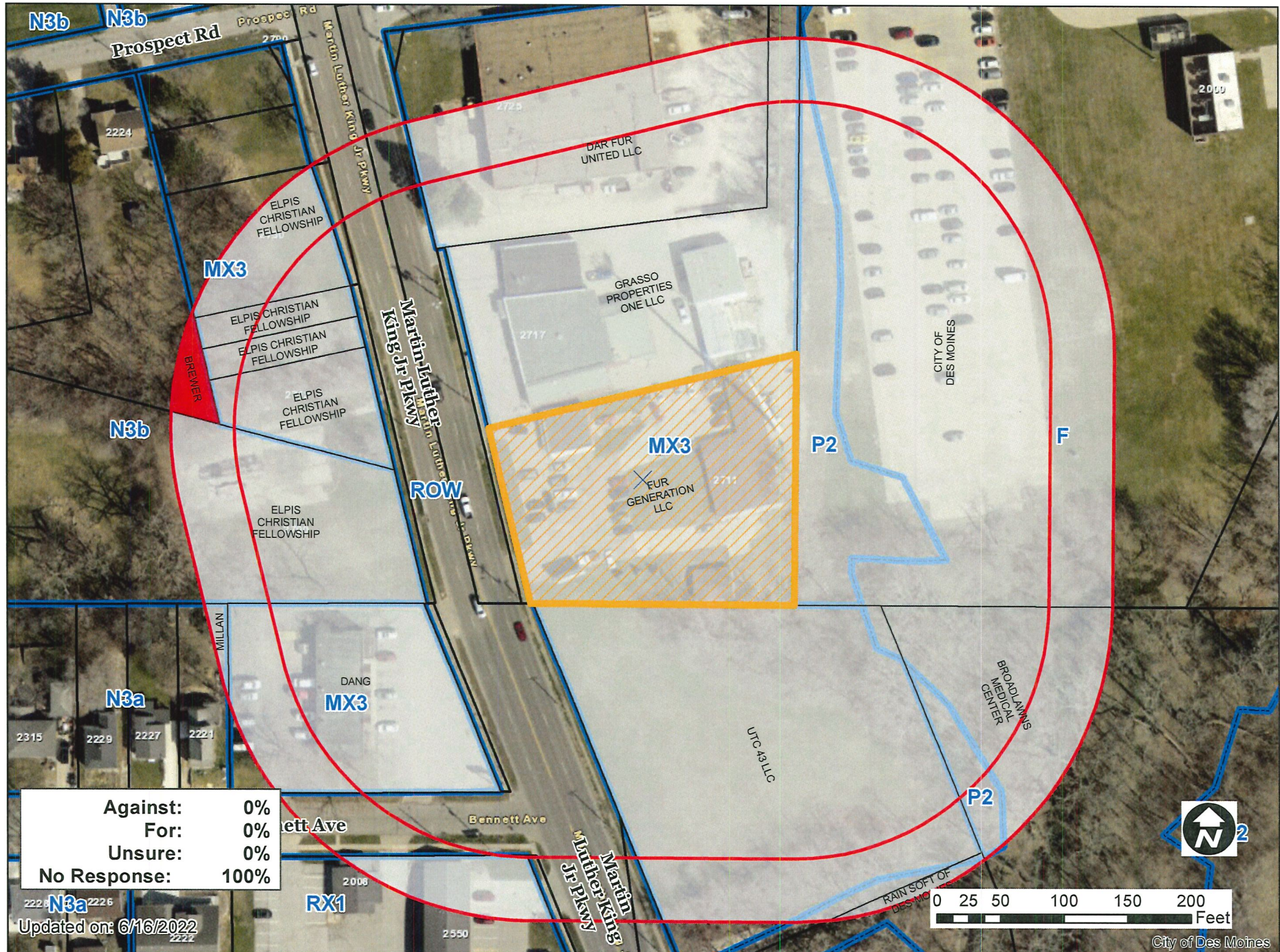
JUN 15 2022

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

every property around this property is for
Mixed use to support community
development of positive growth for substan
property values

Fur Generaton, LLC, 2713 and 2711 Martin Luther King Jr. Parkway

ZONG-2022-000026



1 inch = 100 feet

Fur Generator, LLC, 2713 and 2711 Martin Luther King Jr. Parkway

ZONG-2022-000026



1 inch = 100 feet