



Roll Call Number

Agenda Item Number

27

Date April 24, 2023

RESOLUTION SETTING HEARING ON REQUEST FROM BRADLEY MC ANINCH (OWNER), AND BELINDA MC ANINCH (OWNER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED IN THE VICINITY OF 4700 SOUTHEAST 14TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 6, 2023, its members voted 9-0 in support of a motion finding the requested rezoning for Property located in the vicinity of 4700 Southeast 14th Street is not in conformance with the existing PlanDSM future land use designation of Low Density Residential within a Community Node of the northwestern portion of the property; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 6, 2023 its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Bradley Mc Aninch (Owner) and Belinda Mc Aninch (Owner), to amend the PlanDSM: Creating Our Tomorrow future land use designation of the northwest portion for the Property in the vicinity of 4700 Southeast Street from Low Density Residential within a Community Node to Community Mixed Use within a Community Node; to rezone the Property from “MX2-V” and “MX2” Mixed Use District to “CX” Mixed Use District to allow redevelopment of the site for an Auto Body and Auto Sales business, and determined the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan; and

WHEREAS, the Property is legally described as follows:

A PORTION OF LOT 37 & LOT 38 IN CERTAINTY ACRES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. DESCRIBED AS FOLLOWS BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 38; THENCE S89°38'58"E ALONG THE NORTH LINE OF SAID LOT 38, A DISTANCE OF 259.97 FEET TO THE WEST RIGHT OF WAY LINE OF SE 14TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE S00°04'51"E ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 154.61 FEET TO THE SOUTH LINE OF SAID LOT 38; THENCE N89°32'21"W ALONG THE SOUTH LINE OF SAID LOT 38, A DISTANCE OF 259.88 FEET TO THE SOUTHWEST CORNER OF SAID LOT 38; THENCE S00°00'22"E ALONG THE EAST LINE OF SAID LOT 37, A DISTANCE OF 41.43 FEET; THENCE S73°15'50"W, A DISTANCE OF 146.63 FEET TO THE WEST LINE OF SAID LOT 37; THENCE N00°00'01"E ALONG THE WEST LINE OF SAID LOT 37, A DISTANCE OF 238.64 FEET TO THE NORTHWEST CORNER OF SAID LOT 37; THENCE S89°38'23"E ALONG THE NORTH LINE OF SAID LOT 37, A DISTANCE OF 140.12 FEET TO THE POINT OF BEGINNING.



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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 amendment to the comprehensive plan future land use designation 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 5:00 p.m. on May 8, 2023 in the Council Chambers, City Hall, 400 Robert D. Ray, Drive, Des Moines.
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.

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

/s/ Chas M. Cahill
Chas M. Cahill
Assistant City Attorney

(COMP-2023-000014)(ZONG-2023-000019)

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

CERTIFICATE

I, LAURA BAUMGARTNER, 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 April 24, 2023

Agenda Item 27

Roll Call # _____

April 18, 2023

Communication from the City Plan and Zoning Commission advising that at their April 6, 2023 meeting, the following action was taken regarding a request from Bradley Mc Aninch (owner), and Belinda Mc Aninch (owner) to rezone the two parcels located in the vicinity of 4700 Southeast 14th Street from “MX2-V” and “MX2” Mixed Use District to “CX” Mixed Use District, to allow redevelopment of the site for an Auto Body and Auto Sales business.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus					X
Dan Drendel					X
Leah Rudolphi	X				
Carol Maher	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				
Katie Gillette					X

APPROVAL of Part A) The requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Community Mixed Use.

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification of the northwestern portion of the property from Low Density Residential within a Community Node to Community Mixed Use within a Community Node.

Part C) Approval of the requested rezoning from “MX2-V” and “MX2” Mixed Use District to “CX” Mixed Use District.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Community Mixed Use.

Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification of the northwestern portion of the property from Low Density Residential within a Community Node to Community Mixed Use within a Community Node.

Part C) Staff recommends approval of the requested rezoning from “MX2-V” and “MX2” Mixed Use District to “CX” Mixed Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed rezoning would allow the construction of a new 6000-square foot building to replace an existing auto body and auto sales business that was damaged by fire. The proposed auto body shop with a vehicle display lot does not conform to what is allowed in the existing zoning district of MX2-V. This project falls under the Commercial category and is most consistent with a Vehicle Sales and Service - Vehicle Maintenance/Repair, Major use type.
- 2. Size of Site:** 1.63 acres (71,064.9 square feet).
- 3. Existing Zoning (site):** “MX2-V” and “MX2”, Mixed-Use District.
- 4. Existing Land Use (site):** The subject property includes a parcel, and a portion of another parcel on the Southeast 14th Street corridor, north of East McKinley Avenue. The existing site contained an auto repair and sales business with outdoor storage. The existing building was damaged due to fire and is proposed to be replaced. The site is accessed via three separate drive accesses, one from Southeast 14th Street, and two East Herold Avenue. The undeveloped portion of the property, which includes the parcel to the west is partially within the 100-year floodplain. The Yeader Creek channel passes just southwest of the subject property. The area within the 100-year floodplain is not proposed to be rezoned.
- 5. Adjacent Land Use and Zoning:**
 - North** – “MX2-V”; Use is a large retail building and parking lot.
 - South** – “P1” and “F”; Uses are open space, and State of Iowa property including Yeader Creek.
 - East** – “MX2-V”; Use is the Des Moines Auto Auction parking lot.
 - West** – “MX2”; Use is Polk County Health Services Corp building.

6. **General Neighborhood/Area Land Uses:** The subject property is located to the west of Southeast 14th Street, between East McKinley Avenue and East Herold Avenue. The general uses along this corridor include mostly commercial and retail businesses including big box stores.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the South Central DSM Neighborhood Association and 250 feet of Easter Lake Area Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing the Preliminary Agenda on March 17, 2023 and of the Final Agenda on March 31, 2023.

Additionally, separate notifications of the hearing for this specific item were mailed on March 17, 2023 (20 days prior to the public hearing) and March 27, 2023 (10 days prior to the public 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 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 South Central DSM Neighborhood Association notices were sent to Webster Kranto, 310 E Emma Avenue, Des Moines, IA 50315. The Easter Lake Area Neighborhood Association notices were sent to Jim Bollard, 4007 SE 26th Street, Des Moines, IA 50320.

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

8. **Relevant Zoning History:** On November 10, 2021, the applicant was sent a Notice of Violation by the Zoning Enforcement Officer, asking immediate compliance with a previous court order from the 5th Judicial District dated August 24, 2011, to cease prohibited uses including operation of contractor's equipment storage, parking of vehicles on unpaved areas, storage of inoperable and/or unlicensed vehicles, component parts, junk and debris, refuse container(s) not screened and other unlawful business activity being conducted on the property.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use, Low Density Residential.

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 applicant is requesting that future land use classification of the northwestern portion of the property be revised from "Low Density

Residential” within a “Community Node” to “Community Mixed Use” within a “Community Node”. PlanDSM describes these designations as follows:

Low Density Residential: 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-sized 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.

The subject property is currently zoned “MX2-V” District and “MX2” District. The Zoning Ordinance describes “MX2” district as, “intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.” For X and I district locations labeled with a “-V” extension, vehicle sales and rental display uses are prohibited pursuant to section 134-3.1.2 of the City Code.

The applicant is proposing to rezone the subject property to “CX” District. The Zoning Ordinance describes “CX” district as, “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.”

As a result of the proposed project and rezoning of the property, the site must be brought into full compliance with City Code requirements. Any development must be in accordance with an approved site plan and supplemental regulations pursuant to Section 134-3.5.19.E of the City Code. As a result, staff believes that the proposed land use amendment and rezoning would be consistent with the existing character of the surrounding area along Southeast 14th Street and would not have significant impacts on adjoining properties.

- 2. Vehicle Sales and Rentals:** The zoning district of significant portions of the Southeast 14th Street corridor have been designated as a “-V” extension to discourage the expansion of businesses involving auto oriented sales and rental display lots. The subject property with the proposed auto body shop and vehicle display lot is an existing business that is not proposing to expand beyond its established footprint. The improvements proposed would bring the site into compliance and will enhance the visual appearance of the property.
- 3. Planning and Design Ordinance:** Any future construction or development of the site including site access and design must comply with all applicable site plan and design

regulations of the Planning and Design Ordinance (Chapter 135 of City Code). Should the rezoning be approved, the applicant would be required to prepare a site plan and building elevations for any proposed additions or modifications. Concepts shown by the applicant for the rezoning process may or may not comply with the standards of Chapter 135. A full review will be completed upon the submittal of a formal site plan should the rezoning be approved.

- 4. Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

SUMMARY OF DISCUSSION

Abby Chungath advised item #4 could be considered under the consent agenda. No one was present or requested to speak.

Leah Rudolphi made a motion to move item #4 to the consent agenda.

COMMISSION ACTION:

Emily Webb made a motion for:

Part A) The requested rezoning be found not in conformance with the existing PlanDSM future land use designation of Community Mixed Use.

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification of the northwestern portion of the property from Low Density Residential within a Community Node to Community Mixed Use within a Community Node.

Part C) Approval of the requested rezoning from "MX2-V" and "MX2" Mixed Use District to "CX" Mixed Use District.

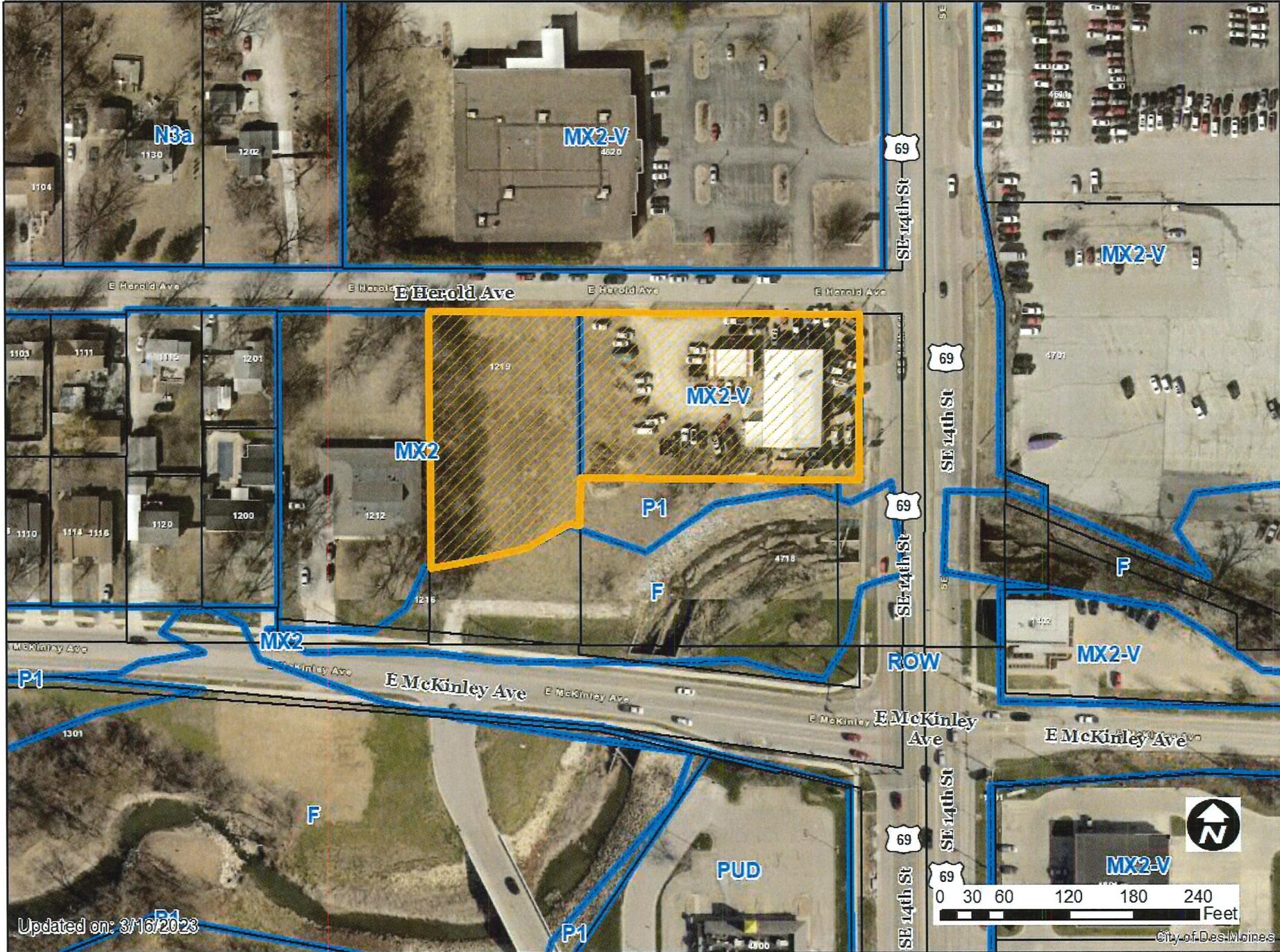
Motion passed: 9-0

Respectfully submitted,

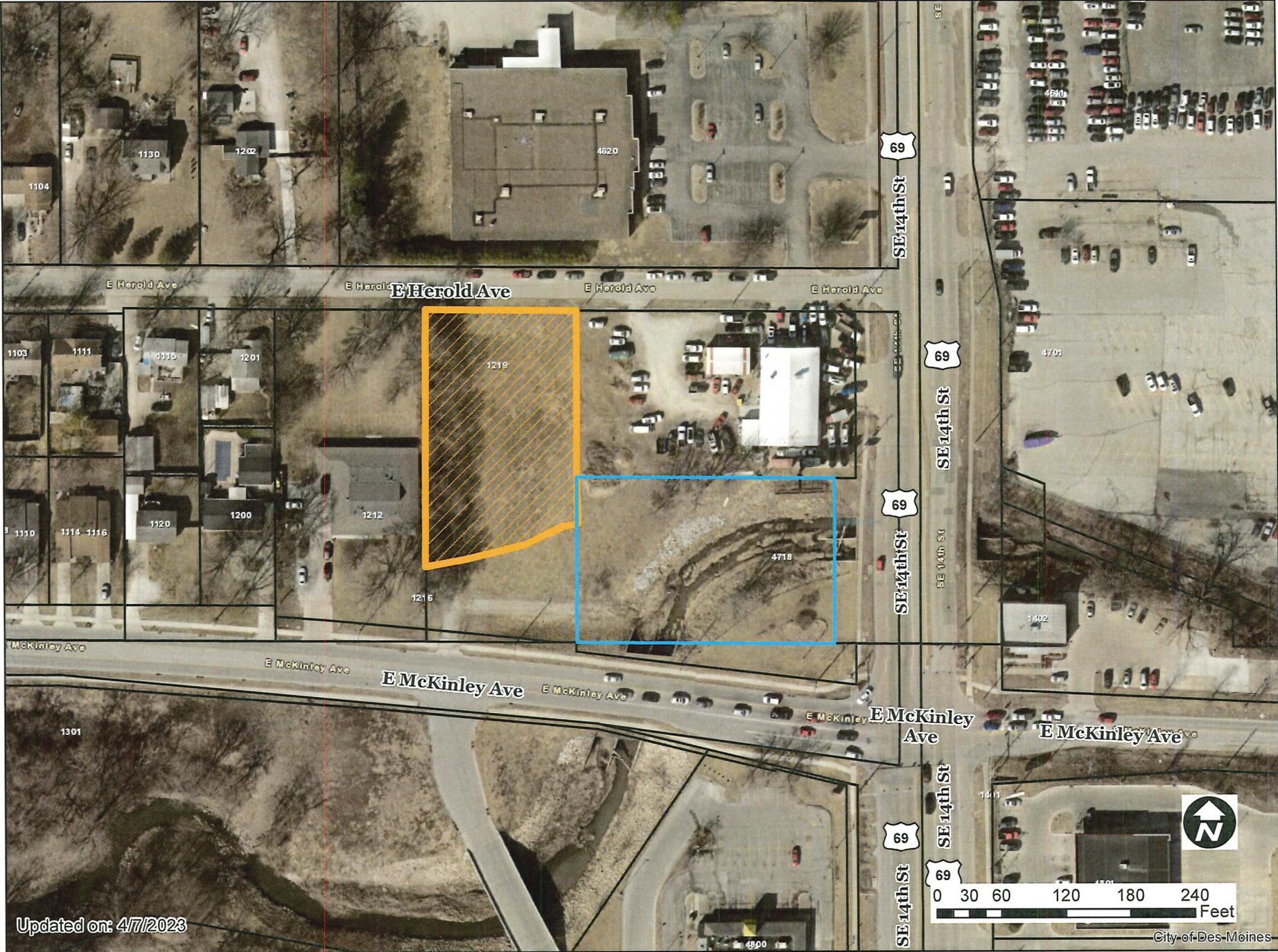


Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



1 inch = 118 feet



Updated on: 4/7/2023

City of Des Moines

1 inch = 118 feet



THIS PARK IS MONITORED BY VIDEO SURVEILLANCE

No Parking

SENSE OF BELONGING IN THE MARIN
CLAYSON

CLAYSON COMMUNITY CENTRE

AMERICAN





THIS PROPERTY
IS MONITORED
BY VIDEO
SURVEILLANCE

WORLD MARKET



New Life Center

New Life Center
601.888.1111

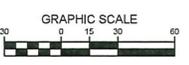
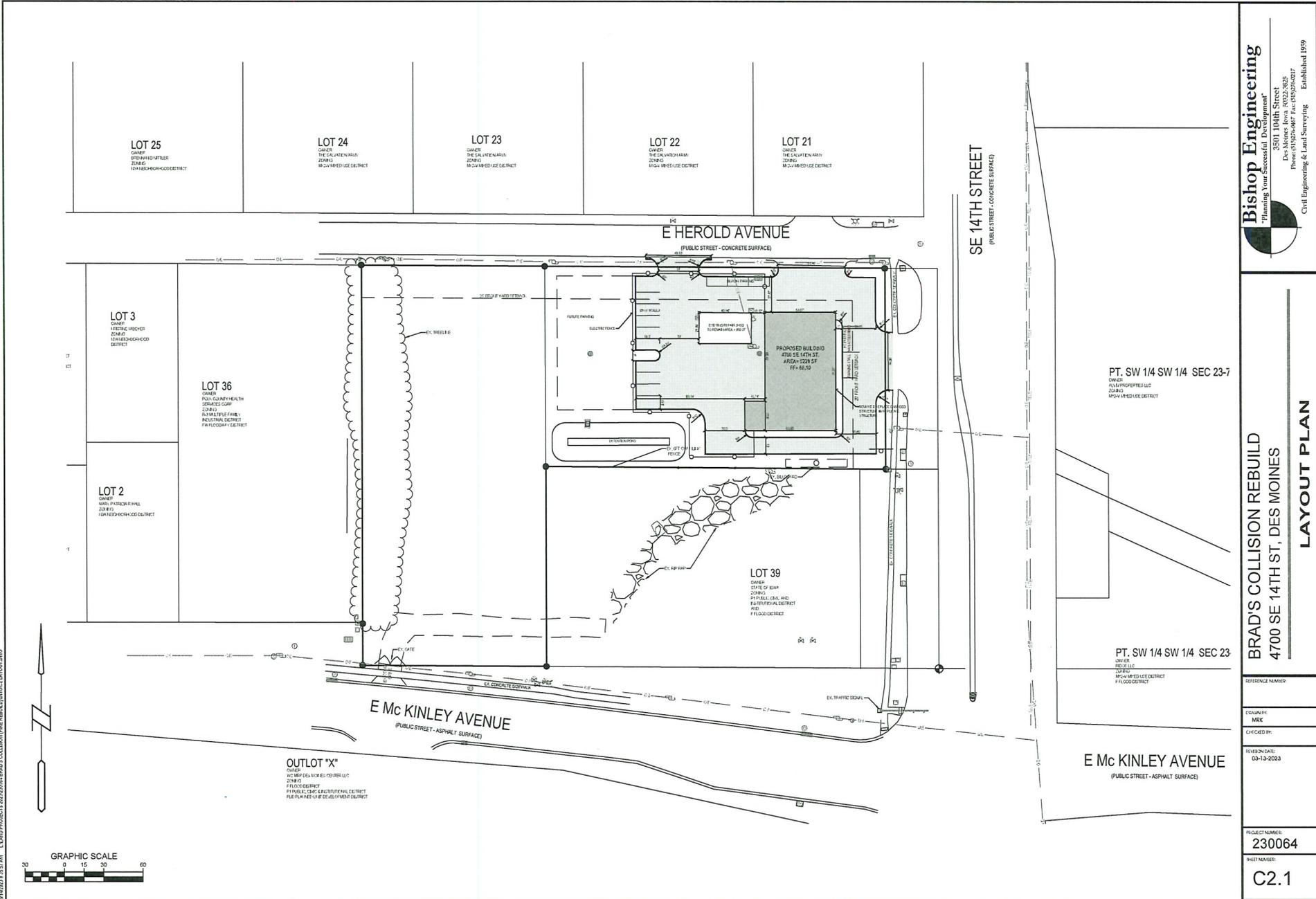
SENSE OF BELONGING IN THE MARINES

MARINES

Auto Parts

PRELIMINARY- NOT FOR CONSTRUCTION

DRAWN BY: J. PAUL L. LAND PROJECTS 2023/03/06 BRAD'S COLLISION REBUILD LAYOUT DWG



Bishop Engineering
 Planning Your Successful Development
 3501 104th Street
 Des Moines, Iowa 50322-8825
 Phone: (515) 276-9667 Fax: (515) 262-6177
 Civil Engineering & Land Surveying
 Established 1959

BRAD'S COLLISION REBUILD
 4700 SE 14TH ST., DES MOINES

LAYOUT PLAN

REFERENCE NUMBER:	
DRAWN BY:	MRK
CHECKED BY:	
REVISION DATE:	03-13-2023
PROJECT NUMBER:	230064
SHEET NUMBER:	C2.1

From: [Chris Pose](#)
To: [Neighborhood Meeting](#)
Subject: ZONG-2023-000019 & COMP-2023-000014 - Neighborhood Meeting Summary
Date: Wednesday, March 29, 2023 11:09:19 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

A neighborhood meeting was held for the above project on March 28, 2023 at 6:00 p.m. at 1003 E Park Ave, Des Moines, IA 50315.

Present at the meeting were Brad McAninch (Applicant Owner), David Bentz (Engineer and Surveyor) and the undersigned.

No neighbors attended.

Notice of the meeting was sent by US Mail on March 20, 2023 to the addresses provided by the mailing list used for this project.

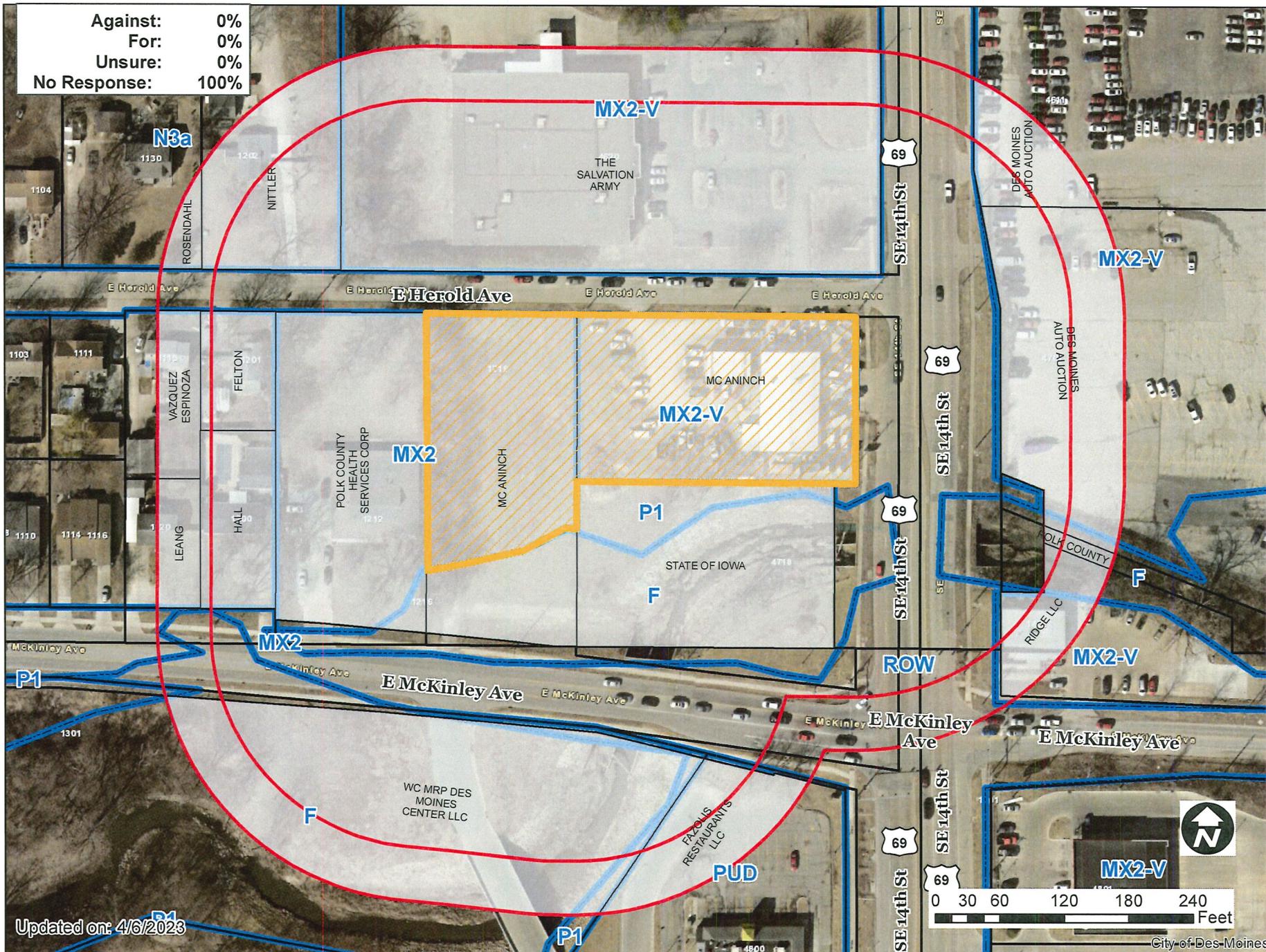
The meeting location was chosen because it is proximate to the site being rezoned and is also owned by the applicant. The site being rezoned has extensive fire damage and was deemed an unsuitable venue for the meeting if anyone wanted to attend.

Respectfully submitted,

Christopher R. Pose
LILLIS O'MALLEY OLSON MANNING POSE TEMPLEMAN LLP
505 5th Avenue, Suite 1005
Des Moines, IA 50309-2362
Phone: 515-243-8157
Cell: 515-371-5726
Fax: 515-243-3919

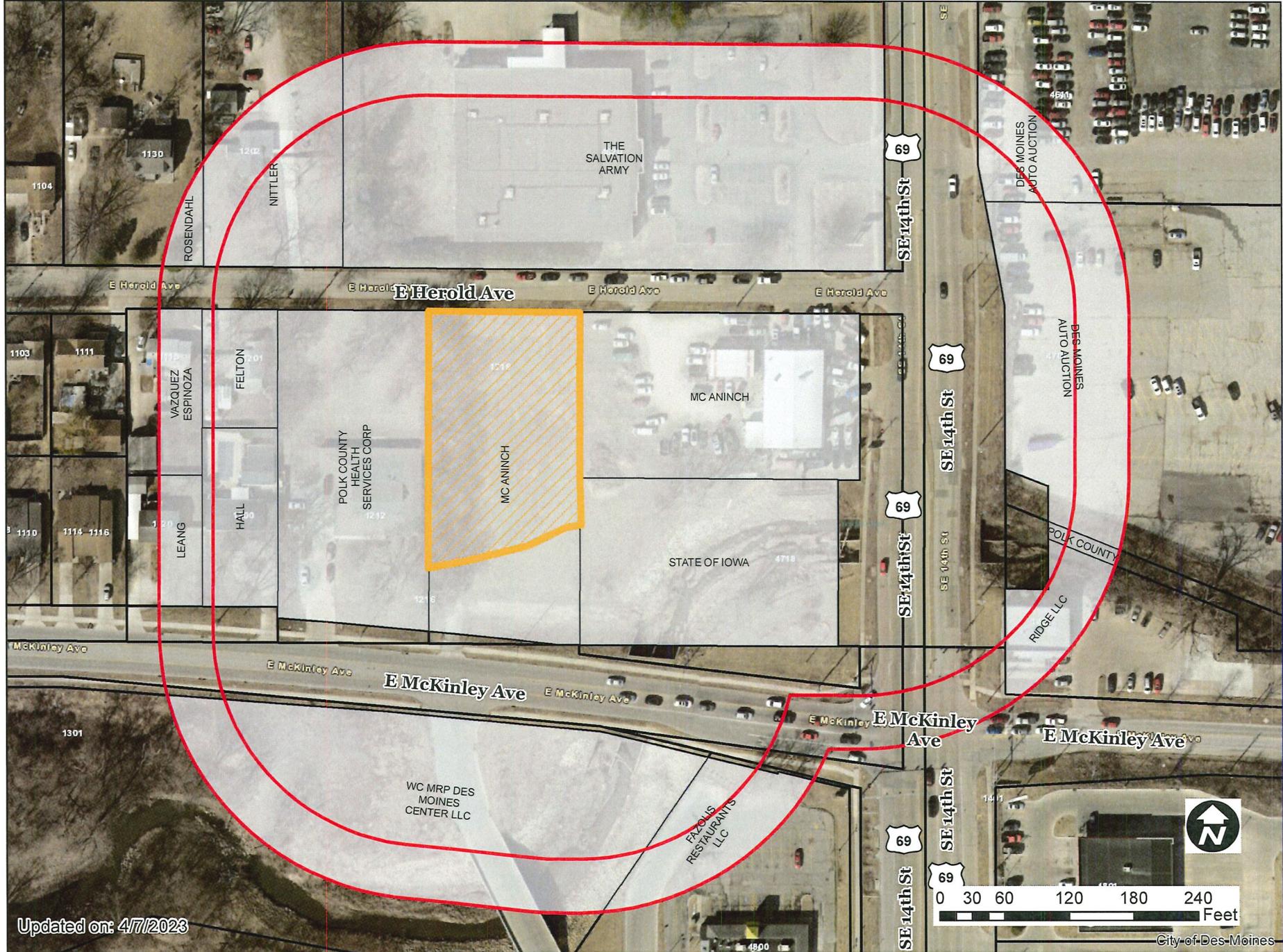
Email: cpose@lolaw.com
Firm Website: www.lillisomalley.com

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Updated on: 4/6/2023

1 inch = 118 feet



Updated on: 4/7/2023

1 inch = 118 feet

