



Date September 11, 2023

RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM SOUTHEAST POLK FAMILY CHURCH (OWNER) REPRESENTED BY DAVID L. HARPER (OFFICER) FOR THE FOLLOWING REGARDING PROPERTY LOCATED AT 4101 EAST 42ND STREET, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM LOW DENSITY RESIDENTIAL TO COMMUNITY MIXED USE, AND TO REZONE THE PROPERTY FROM “P2” PUBLIC, CIVIC, AND INSTITUTIONAL DISTRICT TO LIMITED “MX3” MIXED USE DISTRICT TO ALLOW THE USE OF THE EASTERN PORTION OF THE PROPERTY FOR A NEW ANIMAL SERVICE – BOARDING USE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 3, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Southeast Polk Family Church, represented by David L. Harper (Officer), for the proposed rezoning from “P2” Public, Civic, and Institutional to Limited “MX3” Mixed Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held August 3, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Southeast Polk Family Church, represented by David L. Harper (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Community Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on August 3, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Southeast Polk Family Church, represented by David L. Harper (Officer), to rezone the Property from “P2” Public, Civic, and Institutional to Limited “MX3” Mixed Use District, to allow the use of the eastern portion of the property for a new animal service-boarding use, subject to the following conditions:

Use of the property shall be limited to the following:

1. Any use as permitted and limited in “P2” Public, Civic, and Institutional District, and/or
2. An Animal Service: Boarding and/or Grooming use, occurring only between the hours of 7:00 AM and 6:00 PM; and

WHEREAS, the Property is legally described as follows:

LOTS 49 AND 64 IN CAPITOL HEIGHTS REPLAT, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.



Roll Call Number

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Agenda Item Number

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Date September 11, 2023

WHEREAS, on August 21, 2023, by Roll Call No. 23-1169, 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 September 11, 2023, 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.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification for the Property from Low Density Residential to Community Mixed Use is hereby approved.
3. The proposed rezoning of the Property, as legally described above, from “P2” Public, Civic, and Institutional to Limited “MX3” Mixed Use District, to allow the use of the eastern portion of the property for a new animal service-boarding use, subject to the conditions set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

SECOND BY _____.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

(ZONG-2023-000038; COMP-2023-000022)



Roll Call Number

.....

Agenda Item Number

46

Date September 11, 2023

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

MOTION CARRIED APPROVED

_____ Mayor

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.

_____ City Clerk

August 15, 2023

Communication from the City Plan and Zoning Commission advising that at their August 3, 2023 meeting, the following action was taken regarding a request from Southeast Polk Family Church (owner), represented by David L Harper (officer), regarding property located at 4101 East 42nd Street, to amend the PlanDSM Creating Our Tomorrow Comprehensive Plan to revise the future land use classification for the property from Low Density Residential to Community Mixed Use, and rezone C) Rezone property from “P2” Public, Civic, and Institutional District to “MX3” Mixed Use District, to allow the use of the eastern portion of the property for a new Animal Service - Boarding use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-1 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	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				
Rick Trower	X				

APPROVAL of Part A) The proposed rezoning to “MX3” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Community Mixed Use”.

Part B) Approval of amending the PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Community Mixed Use.

Part C) The subject property be rezoned from “P2” Public, Civic, and Institutional District to “MX3” Mixed Use District, subject to the condition that any use of the property is limited to:

- a. Any use as permitted and limited in "P2" Public, Civic, and Institutional District, and/or
- b. An Animal Service: Boarding and/or Grooming use, occurring only between the hours of 7:00 AM and 6:00 PM.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use".

Part B) Staff recommends approval of amending the PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Community Mixed Use.

Part C) Staff recommends the subject property be rezoned from "P2" Public, Civic, and Institutional District to "MX3" Mixed Use District, subject to the condition that any use of the property is limited to:

- a. Any use as permitted and limited in "P2" Public, Civic, and Institutional District, and/or
- b. An Animal Service: Boarding and/or Grooming use.

STAFF REPORT TO THE PLANNING COMMISSION

1. **Purpose of Request:** The applicant is proposing to develop the rear portion of the church property for a daytime animal boarding use.

The application includes the following business description:

"In partnership with the current church that is there, we would like to build a doggy daycare. At Hope Agency we work with individuals with special needs to live independent, productive lives. With this daycare, this will assist with employeering some of those individuals as well as others in the community. Helping to introduce the younger generation to people with differing abilities while learning job skills for their future."

2. **Size of Site:** The subject property consists of two parcels each measuring 150 feet by 558 feet (1.921acres) for a combined area of 3.842 acres.
3. **Existing Zoning (site):** "P2" Public, Civic & Institutional District.
4. **Existing Land Use (site):** The site contains a religious assembly building containing 7,732 square feet of gross floor area.
5. **Adjacent Land Use and Zoning:**

North – “CX” & “MX3”; Uses are retail and office.

South – “P2”, “NX3”, & “N3a”; Uses are religious assembly and low density residential.

East – Polk County “LDR”; Uses are low density residential and mobile home park.

West – “MX3” & “PUD”; Uses are Garmisch Apartments PUD (senior living apartments) and fuel station and convenience store.

6. **General Neighborhood/Area Land Uses:** The subject property is on located East 42nd Street just south of the intersection with the Hubbell Avenue corridor. The area consists of a mix of commercial, institutional, medium density residential, and low density residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Sheridan Gardens Neighborhood. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on July 14, 2023, and the Final Agenda on July 28, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on July 14, 2023 (20 days prior to the public hearing) and July 24, 2023 (10 days prior to the public hearing) 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 Services Department on the date of the mailing. The Sheridan Gardens notices were mailed to Tori Shanks.

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

8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** 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 the future land use designation for the property be revised from “Low Density Residential” to “Community Mixed Use”. PlanDSM describes this designation 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.

Staff believes that this land use classification is appropriate given its location adjacent to the Hubbell Avenue corridor.

The subject property is currently zoned "P2" Public, Civic, and Institutional District. The Zoning Ordinance describes "P2" district as, "intended for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure includes public or private infrastructure, including rail corridors and utility corridors or sites."

The applicant is proposing to rezone the subject property to the "MX3" Mixed Use District. The Zoning Ordinance describes "MX3" district as, "intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobile. This district accommodates higher intensity commercial uses at a smaller scale."

The MX3 District is compatible with the Community Mixed Use designation.

2. **Separation Distance:** Section 134-3.5.2 of the Zoning Ordinance requires outdoor boarding and outdoor exercise runway area to be separated by at least 75 feet from a "N" or "NX1" District.
3. **Accessory Structures:** Any additional building constructed on the subject property would be secondary to the principal use of religious assembly. Any such structure would therefore be accessory to the religious assembly use and must comply with all applicable regulations of the Chapter 135 Planning and Design Ordinance for accessory structures.
4. **Planning and Design Ordinance:** Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

III. STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use".

Part B) Staff recommends approval of amending the PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Community Mixed Use.

Part C) Staff recommends the subject property be rezoned from "P2" Public, Civic, and Institutional District to "MX3" Mixed Use District, subject to the condition that any use of the property is limited to:

- c. Any use as permitted and limited in "P2" Public, Civic, and Institutional District, and/or
- d. An Animal Service: Boarding and/or Grooming use.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Leah Rudolphi asked if the zoning conditions run with the land.

Bert Drost states yes.

David Harper, 8069 Cobblestone Rd. Urbandale, IA stated

CHAIRPERSON OPENED THE PUBLIC HEARING

Lesia Brill, 4096 NE 43rd Court,

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Part A) The proposed rezoning to "MX3" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Community Mixed Use".

Part B) Approval of amending the PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Community Mixed Use.

Part C) The subject property be rezoned from "P2" Public, Civic, and Institutional District to "MX3" Mixed Use District, subject to the condition that any use of the property is limited to:

- c. Any use as permitted and limited in "P2" Public, Civic, and Institutional District, and/or
- d. An Animal Service: Boarding and/or Grooming use, occurring only between the hours of 7:00 AM and 6:00 PM.

THE VOTE: 12-0-1 (Chris Draper passed).

Respectfully submitted,

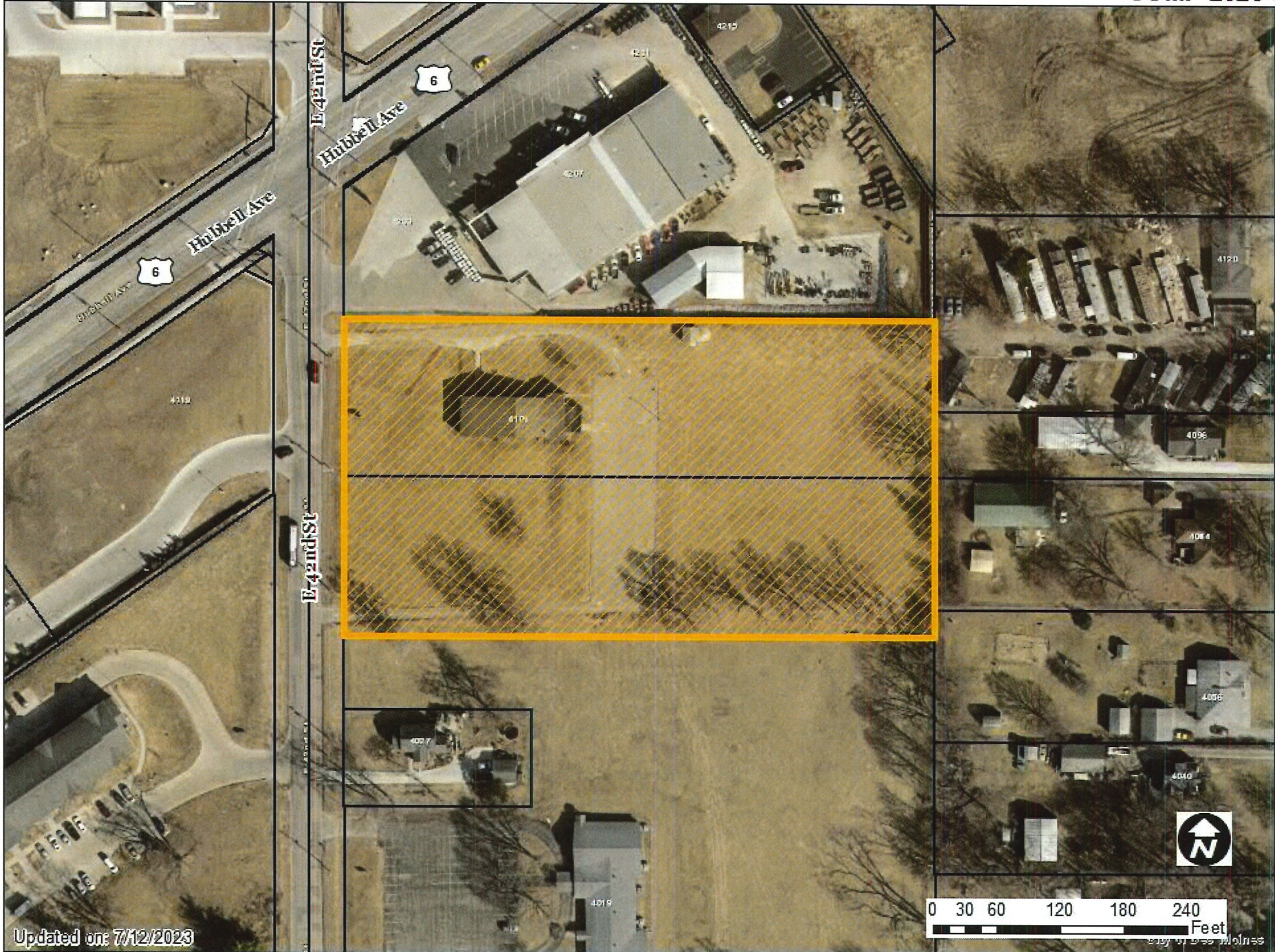


Bert Drost, AICP
Deputy Planning Administrator

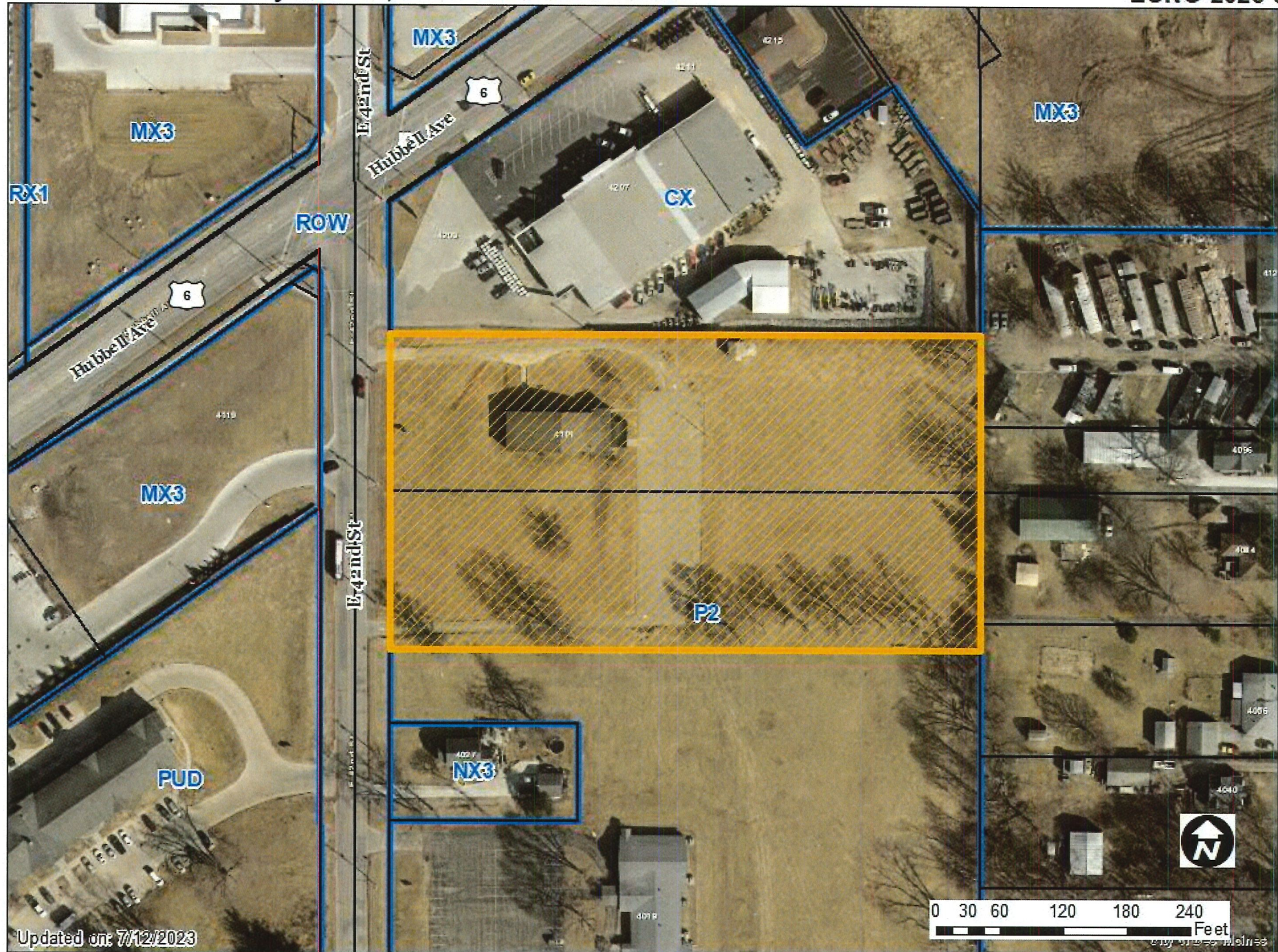
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Southeast Polk Family Church, 4101 East 42nd Street

COMP-2023-000022



1 inch = 120 feet

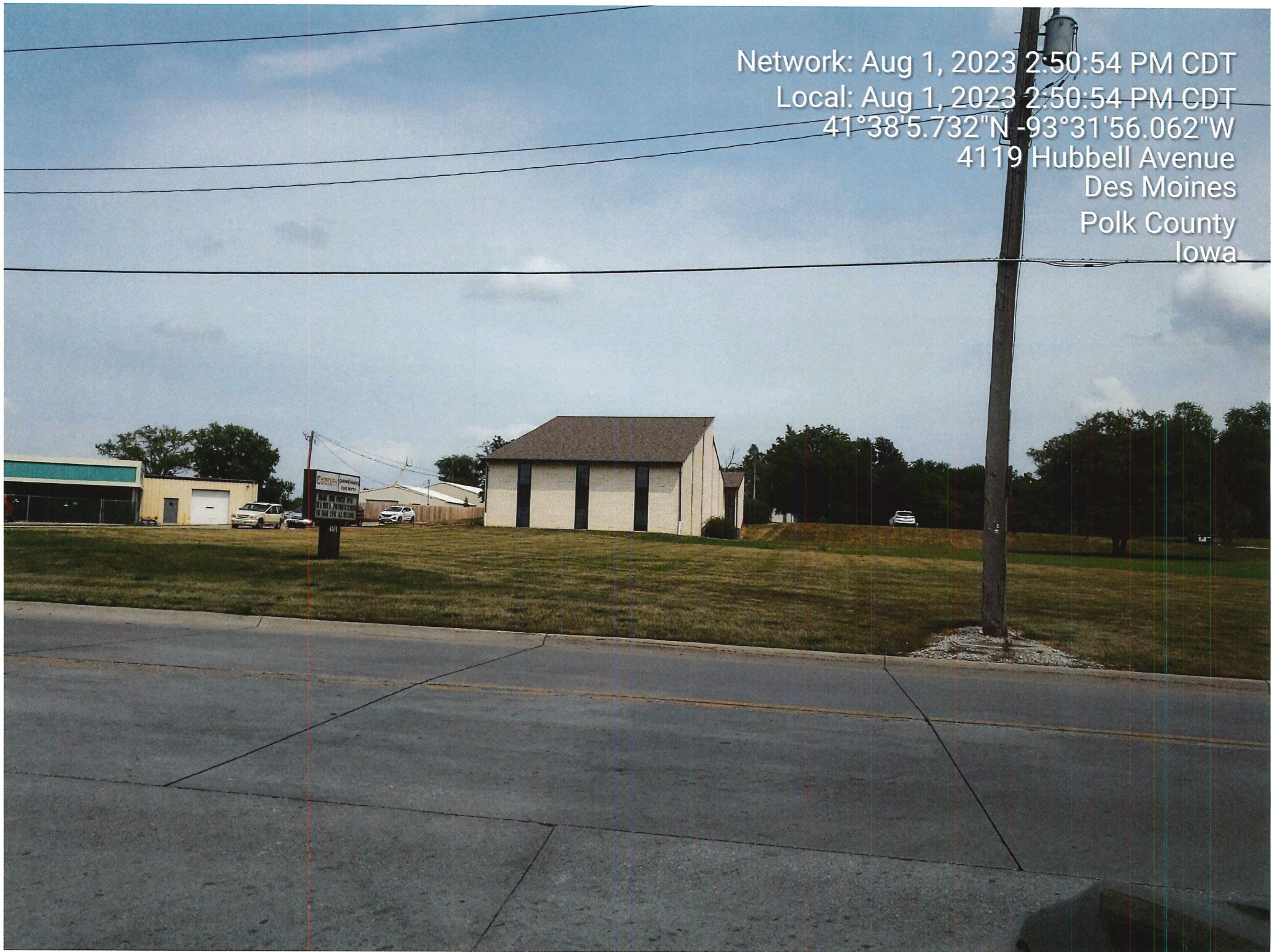


Updated on: 7/12/2023

0 30 60 120 180 240 Feet

1 inch = 120 feet

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Local: Aug 1, 2023 2:50:54 PM CDT
41°38'5.732"N -93°31'56.062"W
4119 Hubbell Avenue
Des Moines
Polk County
Iowa



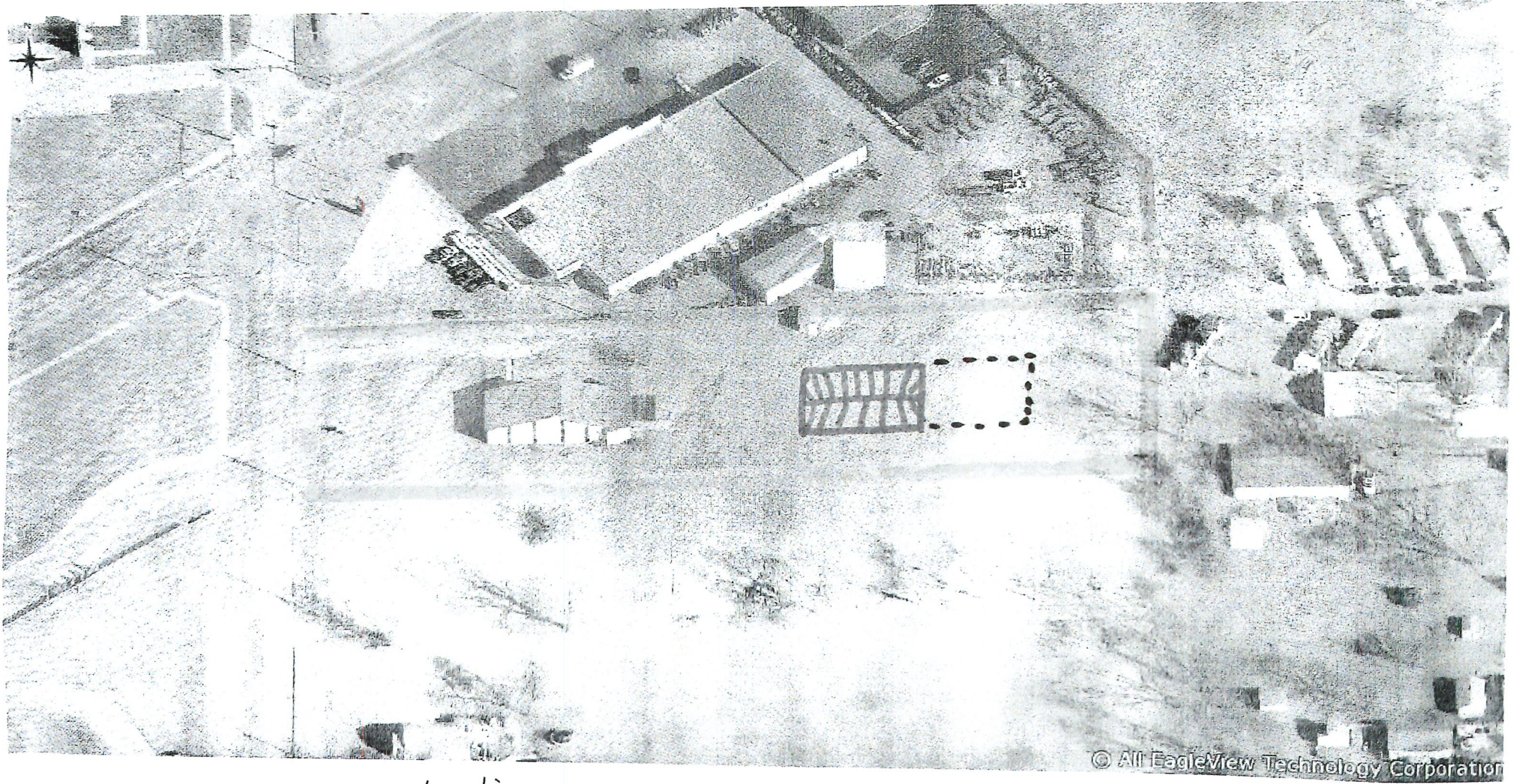
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Local: Aug 1, 2023 2:51:38 PM CDT
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4101 East 42nd Street
Des Moines
Polk County
Iowa



Network: Aug 1, 2023 2:51:33 PM CDT
Local: Aug 1, 2023 2:51:33 PM CDT
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4101 East 42nd Street
Des Moines
Polk County
Iowa






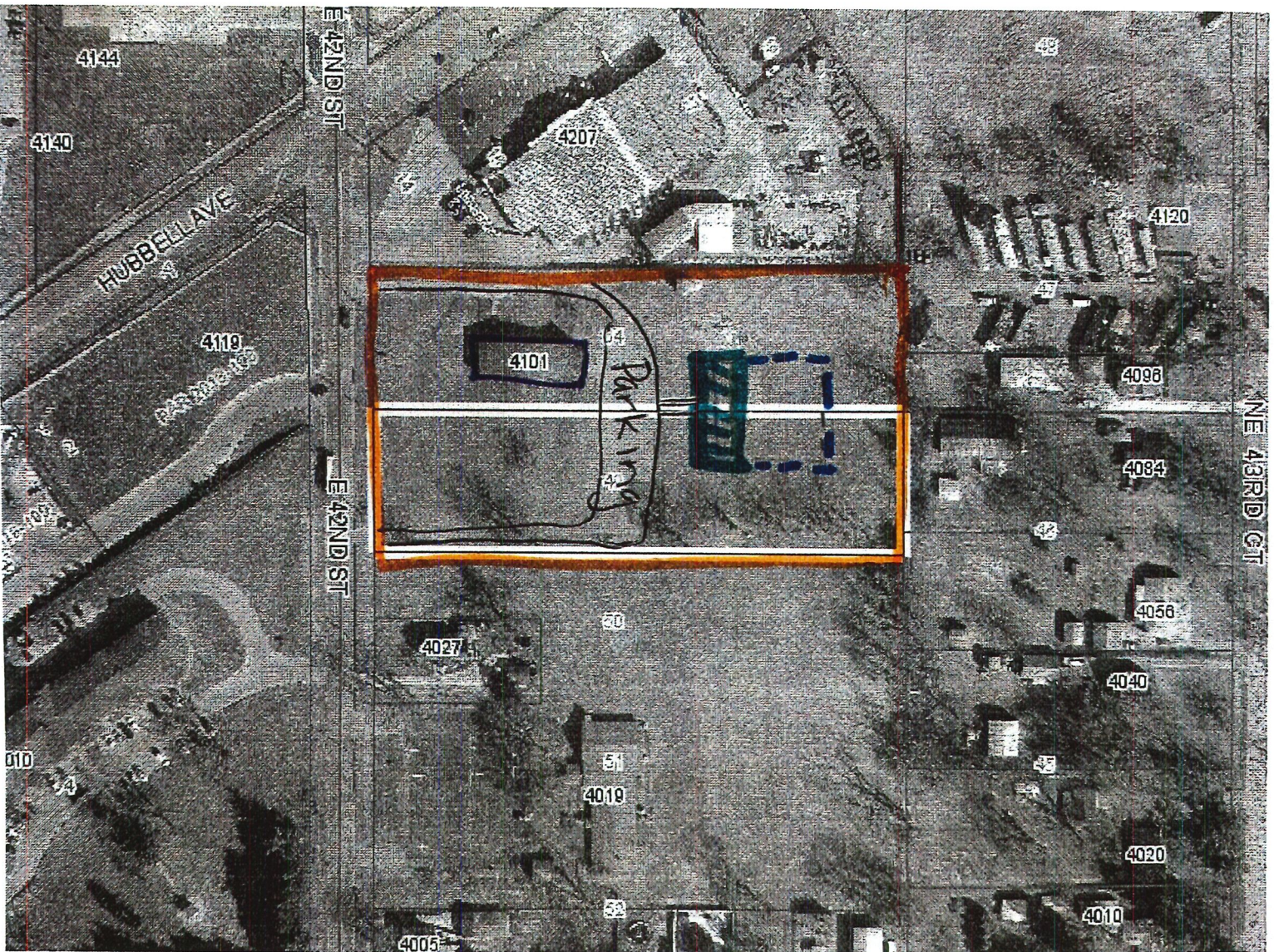
4101 E 42



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03/16/2022

-  property line
-  proposed building
-  fenced area



- Doggie Daycare - New Structure

 - proposed fence

 - property lines

 - existing community center

HOPE Agency is a nonprofit, 501 (c) 3 that empowers individuals with special needs to live independent, productive lives. One of the ways in which HOPE Agency accomplishes its mission is through supporting individuals to find meaningful employment in the community.

The project proposal is to build a doggie daycare, PawsAbilities, on the existing property, 4101 E 42nd Street in Des Moines. The purpose of this venture is threefold.

1. **Employment Skills Training.** HOPE Agency would use this opportunity to offer jobs to individuals with special needs to help them learn skills to further their career journey. Community employment can be intimidating to individuals that have never worked before. At PawsAbilities, employees will have an opportunity to work, learn skills and earn a paycheck in an inclusive, supportive environment.
2. **Youth Involvement.** Due to funding restrictions, HOPE Agency is not allowed to hire anyone under the age of 18 to work in its programs. We feel this is a missed opportunity for youth to be exposed to a fulfilling career pathway. HOPE Agency envisions hiring youth between the ages of 15 – 18 to work alongside individuals with special needs to create an experience that can foster understanding, compassion and perhaps an introduction to working in human services.
3. **Community Involvement.** HOPE Agency relies on volunteers and donations to continue its primary mission of supporting and empowers individuals with special needs. PawsAbilities is a way to offer a service, increase community involvement and help spread the word about HOPE Agency.

PawsAbilities will operate from 7 am – 6 pm, Monday through Friday. The size of the proposed building would be approximately 4,000 sq/ft with a fenced yard for outside play, all of which would be behind the existing structure, hidden from the road. The maximum number of dogs for the daycare would be no more than 25 a day. The number of employees would be two at any given time to stay within required ratios.

The required ratio is 15 dogs per one staff member. We will have a lead management person to oversee the daily activities and requirements for the daycare. PawsAbilities will share administrative support with HOPE Agency that includes: technology, human resources, quality assurance, accounting and leadership. The one additional need is a separate technology dashboard, DoggieDashboard, for scheduling, documents, waivers, and required dog information.

PawsAbilities will be a place for the community to bring their loved dogs to be carefully taken care of, loved, and played with while they are at work or away for the day. Given the therapeutic nature of animals, PawsAbilities will also be an opportunity for community members to volunteer and get something in return, feeling a part of something that is helping others find success.

Day to day operations overview:

- Designated drop off time (7-10am) and pick up time (3-6pm), limiting time of traffic and parking needs.

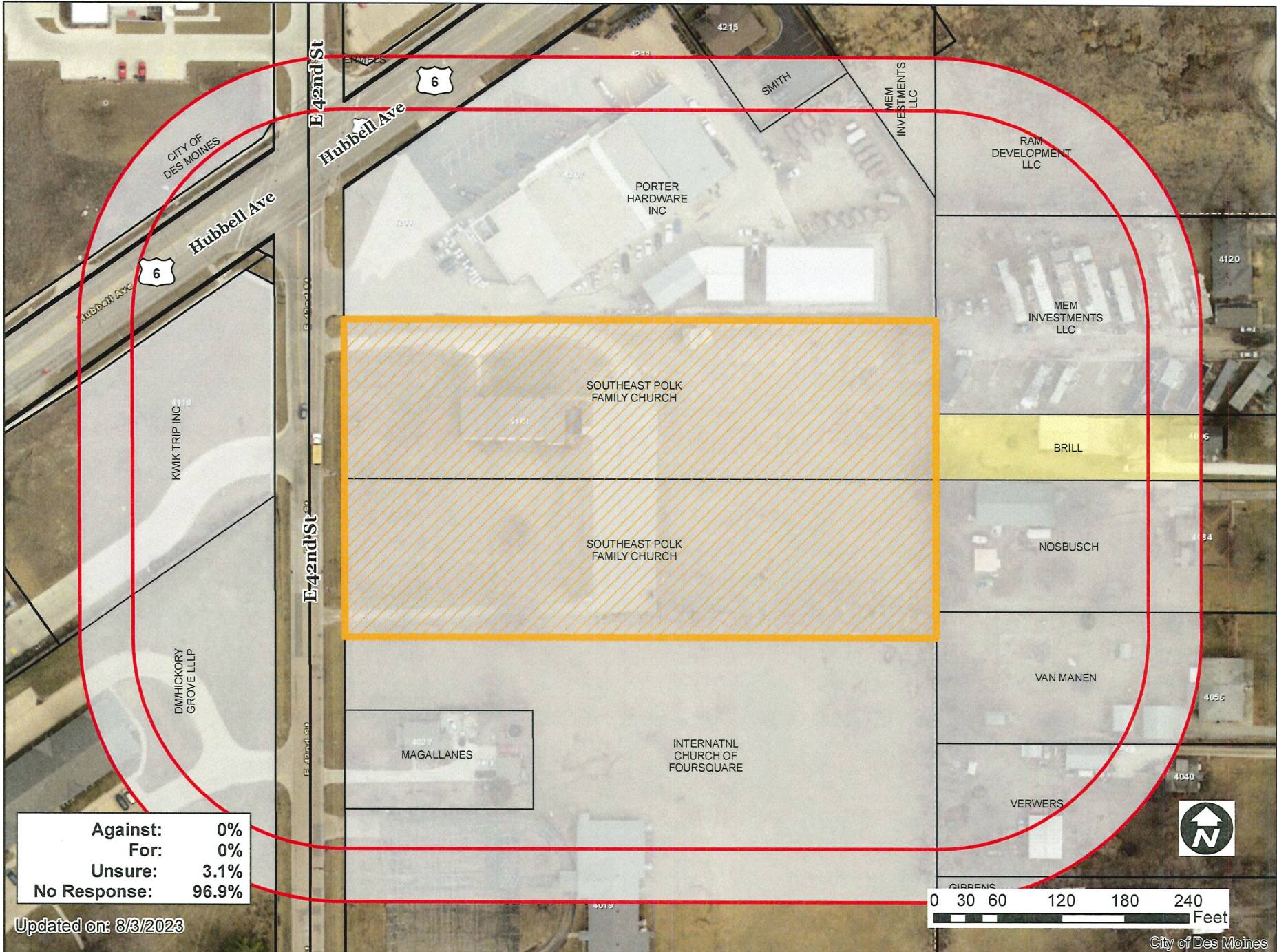
- Designated areas for larger dogs, smaller dogs and separation for dogs that don't do well with other dogs.
- Variety sizes of kennels to fit the dogs and allow for their rest time.
- Area for limited grooming to include: bathing, nail clipping, brushing
- Structured days
- Two different fenced in areas for different personality dogs

Funding for this project will be through grants, donations, and partnerships with area businesses initially, with the intent to be self-sustaining within the first year.

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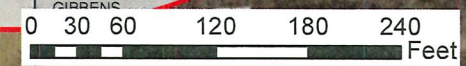
Southeast Polk Family Church, 4101 East 42nd Street

ZONG-2023-000038



Against:	0%
For:	0%
Unsure:	3.1%
No Response:	96.9%

Updated on: 8/3/2023



City of Des Moines

1 inch = 120 feet

Item: ZONG-2023-000038

Date: 7-31-23

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
AUG 03 2023

Titleholder Signature: Jesica Brill

Name/Business: Lesia Brill

Impacted Address: 40916 NE 43rd Ct

Comments: 1) changes my view; 2) impacts practices for softball teams; 3) Banking; 4) is there a need for a doggie day care here. There is a kennel a few blocks from this site; 5) It would change how people cut through when walking

July 30, 2023

4101 E 42nd Street in Des Moines from 5 pm – 6 pm

Those in attendance: Molly Camp, Matt Camp, Emily Nadermann, David Harper, Lesa Brill and Amy Wallman Madden

A neighborhood meeting was held today to review the proposed zoning changes to 4101 E 42nd Street. Out of all the notices mailed, one neighbor was in attendance and shared concerns.

Those concerns were as follows:

- Visual changes that would obstruct views of open grass field as current. The option to move the proposed site to the other parcel was discussed, but then would potentially take out another open field to allow for utilities access. And would potentially cost more due to length of connecting utilities.
- Limiting access for youth to play baseball or flag football. David explained that there would still be at least 1 field that youth could access. He also shared that due to the number of children using the fields he was looking to limit the fields anyway. It was getting too large to be a safe space for kids/families.
- Noise concerns. There are many people that walk on that piece of property that could solicit barking or outside cats that also would be roaming the neighborhood. We discussed that the hours would only be M – F during the day and there would be no overnight boarding. Additionally, there would be large (closed) fences put up to reduce noise and distractions for dogs. Landscaping would also beautify the fence and help with noise. The building would be constructed as close to the existing parking lot as possible, with a minimum 75 feet between property lines, more than likely much more distance.
- Need for service in that area. There is an existing dog boarding business close by. HOPE Agency has done some market research to ensure viability, but will circle around and do another study in that area specifically. HOPE Agency will contact that existing boarding business as well.



It was discussed that there would be additional security cameras set-up due to individuals that walk across the lot to get to the gas station. Additionally, with a structure obstructing some views, motion detection lights could help deter potential crimes.

There were additional concerns shared about taking green space away and allowing any sort of business to occupy that space if it were approved to be re-zoned. David shared that history on how Southeast Polk Church owns the land and the Eastview Community Center uses the space for a food pantry and overall community betterment place. By partnering with HOPE Agency to bring in a business that can help train individuals with special needs to find and secure employment, he hopes to expand that community outreach. This could also open up opportunities for youth to work alongside people with special needs in a business that teaches compassion, empathy, patience and that all people have abilities and worth.

There is much support from the Southeast Polk Church community as well that can help with this venture to ensure it is successful and beneficial for the community.



HOPE Agency
Honoring Opportunities for
Personal Empowerment