

Date ..... March 6, 2006 .....

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held February 16, 2006, the members recommended by a vote of 11-0 for **CONDITIONAL APPROVAL** of a request from Forget Properties L.L.C. (Owner) represented by Norman Forget (Officer) to rezone property located at 4411 Southeast 14<sup>th</sup> Street from "R1-70" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow for retail and commercial development with no allowance of residential use, subject to the applicant agreeing to the following conditions:

1. Prohibit use of the property for multiple-family residential dwellings, adult entertainment business, garages for general motor vehicle repair, package goods stores for sale of liquor, vehicle display, off-premises advertising signs, and taverns/nightclubs.
2. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EFIS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EFIS/stucco or EFIS.
3. Any freestanding signs permitted must be ground mounted with a brick or masonry block pedestal compatible with the primary building material.

Subject property is more specifically described as follows:

Beginning at the Southwest corner of Lot 15, Lesan Heights, an Official Plat; Thence S00°54'32"W, 318.05 Feet to a point; Thence N89°40'55"W, 372.24 Feet to a point; Thence N00°01'48"W, 329.69 Feet to a point; Thence S89°42'50"E, 367.18 Feet to a point on the West line of said Lesan Heights; Thence S00°54'32"E, 11.91 Feet along said West line to the point of beginning and containing 2.799 acres.

(Continued)


Date March 6, 2006

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on March 20, 2006, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. 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.

FORM APPROVED:

  
 Roger K. Brown  
 Assistant City Attorney

(ZON2006-00003)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLISSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, 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

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Request from Forget Properties L.L.C. (Owner) represented by Norman Forget (Officer) to rezone property located at 4411 SE 14 <sup>th</sup> Street.			File # <b>ZON2006-00003</b>	
<b>Description of Action</b>	Rezone property from "R1-70" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow for retail and commercial development with no allowance of residential use.			
<b>2020 Community Character Plan</b>	Low Density Residential			
<b>Horizon 2025 Transportation Plan</b>	SE 14 <sup>th</sup> Street from Watrous Avenue to Army Post Road Widen from 4 lane divided to 6 lane divided			
<b>Current Zoning District</b>	"R1-70" One-Family Low-Density Residential District			
<b>Proposed Zoning District</b>	Limited "C-2" General Retail and Highway-Oriented Commercial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	3	0	0	<20%
<b>Plan and Zoning Commission Action</b>	<b>Approval</b>	<b>11-0</b>	<b>Required 6/7 Vote of the City Council</b>	Yes
	<b>Denial</b>			No

Forget Properties LLC - 4411 SE 14th Street

ZON2006-00003



March 6, 2006

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Honorable Mayor and City Council  
City of Des Moines, Iowa

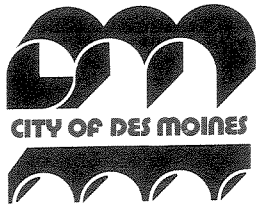
Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held February 16, 2006, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Brian Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson				X
Kent Sovern	X			
Tim Urban				X
Marc Wallace	X			



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309 -1881  
 (515) 283-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

**CONDITIONAL APPROVAL** of a request from Forget Properties L.L.C. (Owner) represented by Norman Forget (Officer) to rezone property located at 4411 Southeast 14<sup>th</sup> Street from "R1-70" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District to allow for retail and commercial development with no allowance of residential use, subject to the applicant agreeing to the following conditions: (ZON2006-00003)

1. Prohibit use of the property for multiple-family residential dwellings, adult entertainment business, garages for general motor vehicle repair, package goods stores for sale of liquor, vehicle display, off-premises advertising signs, and taverns/nightclubs.
2. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EFIS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EFIS/stucco or EFIS.
3. Any freestanding signs permitted must be ground mounted with a brick or masonry block pedestal compatible with the primary building material.

By separate motion the members voted 11-0 for **APPROVAL** of a request to amend the Des Moines 2020 Community Character Land Use Plan to revise the future land use designation from Low Density Residential to Commercial: Auto-Oriented Community Commercial for property located at 4411 Southeast 14<sup>th</sup> Street, as more specifically shown in the accompanying map. (21-2006-4.01)

Written Responses

3 In Favor (2 were from the subject property owner)

0 In Opposition

*This item would not require a 6/7 vote by City Council.*

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Part A) Staff recommends that the proposed rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan future land use map designation.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use map designation from Low Density Residential to Commercial: Auto-Oriented Community Commercial.

Part C) Staff recommends approval of the requested rezoning subject to the applicant agreeing to the following conditions:

1. Prohibit use of the property for multiple-family residential dwellings, adult entertainment business, garages for general motor vehicle repair, package goods stores for sale of liquor, vehicle display, off-premises advertising signs, and taverns/nightclubs.
2. Construction of any commercial building shall be designed with 75% of all non-glazed exterior wall surfaces consisting of materials that are brick, split face concrete masonry units, stone, or EFIS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EFIS/stucco or EFIS.
3. Any freestanding signs permitted must be ground mounted with a brick or masonry block pedestal compatible with the primary building material.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to redevelop the former mobile home court property to a development that transitions west to east from highway commercial use to retail/office commercial use to single-family residential use. A development concept included with the application indicates construction of a 20,000 square foot commercial center with off-street parking for the subject property.
2. **Size of Site:** 2.79 acres
3. **Existing Zoning (site):** "R1-70" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Vacant site formerly a mobile home court.
5. **Adjacent Land Use and Zoning:**
  - North** - "R1-70", Use is mobile home court.
  - South** - "C-2", Use is Schuster Supply.
  - East** - "R1-70", Use is vacant residential land.
  - West** - "C-2", Uses are car wash and vacant commercial land.

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6. **General Neighborhood/Area Land Uses:** The subject property is located on the major SE 14<sup>th</sup> Street highway commercial corridor as it transitions east to single-family residential neighborhood.
  7. **Applicable Recognized Neighborhood(s):** Bloomfield/Allen Neighborhood and South Park Neighborhood.
  8. **Relevant Zoning History:** The applicant previously sought rezoning of the subject property as well as property adjoining on the east and west, to "PUD" Planned Unit Development. The proposed Conceptual Plan had included proposed multiple-family apartments for the subject property as a transition between commercial uses on Southeast 14<sup>th</sup> Street and extension of Southeast 15<sup>th</sup> Court with single-family residential. The Plan and Zoning Commission recommended unanimous approval of the "PUD" rezoning on September 2, 2004. The City Council unanimously denied the request on September 27, 2004.
  9. **2020 Community Character Land Use Plan Designation:** Low Density Residential.
  10. **Applicable Regulations:** 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. Section 134-700 of the Des Moines City Code specifies that major changes to a conceptual plan must be resubmitted in the same manner as the original conceptual plan.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Site Features:** There are no significant natural features on the subject property as it has been cleared of its previous use for a mobile home court. To the southeast of the property is significant vegetation and a drainage way.
2. **Drainage/Grading:** The subject property is lower in elevation than the adjoining commercial property on Southeast 14<sup>th</sup> Street. It slopes down generally from west to east. Rough grading has occurred on the subject property with the past 18 months under an approved grading permit with the Permit and Development Center. More specific grading for future development will be required to have an approved grading and erosion control plan as part of any approved site plan.
3. **Utilities:** The applicant will be responsible for extension of necessary public utilities for any development. There are existing public storm and sanitary sewers available to the subject property.
4. **Landscaping & Buffering:** The applicant will be required to provide landscaping in conformance with the Des Moines Landscape Standards for any commercial site plan development of the subject property. This will require bufferyard setbacks, plantings and screening from the residential properties to the north and east as well as a minimum 20% open space and plantings.
5. **Traffic/Street System:** The subject property has no direct frontage on a public street. The concept submitted with the rezoning application reserves a private drive and additional property for future dedication of right-of-way for the extension of East Emma Avenue. This was also proposed with the previously requested PUD rezoning. However, the Commission approved it without provision for a through connection to SE 15<sup>th</sup> Court based on neighbors concern about impact from a through access to Southeast 14<sup>th</sup> Street.

Staff believes that the extension of East Emma Avenue as a 50' wide local street right-of-way should occur with development of the subject property. This comes with the understanding that it may impact lot widths of future single-family corner lots and shift the development around or involve cooperation and negotiation with the adjoining property owner to the south. This would ultimately achieve the Des Moines' 2020 Community Character Plan goal to providing interconnecting street networks. Eventually this would also provide for connection to SE 15<sup>th</sup> Court south and an offset connection to the dead end segment of East Emma Avenue that exists to the east.

6. **Access or Parking:** The applicant is required to provide off-street parking for all proposed uses in accordance with minimum requirements. Primary access to the subject property will need to be provided as indicated on the concept sketch including a drive access connection to SE 14<sup>th</sup> Street and a median break at East Emma Avenue. Ingress/egress easements will be necessary as part of any site plan for the subject property to ensure proper future cross or shared access to surrounding properties on the north, south, and west.
7. **2020 Community Character Plan:** The current designation for the subject property must be amended from Low Density Residential in order to find the proposed rezoning in conformance with the comprehensive plan. The proposed commercial depth is equal to the depth of existing commercial use to the south. Due to the existing substandard mobile home court to the north, staff believes it is reasonable to extend the commercial depth to include the subject property.

Because of directly adjoining single-family residential uses to the east, staff believes that some normally permitted commercial uses should be prohibited on the subject property. Staff would recommend that multifamily residential use, adult business, garages for general motor vehicle repair, package goods stores for sale of liquor, vehicle display, off-premises advertising signs, and taverns/nightclubs be prohibited.

8. **Urban Design:** The City is working with the South Side Revitalization Partnership group in an effort to improve the quality and aesthetics of commercial development along the Southeast 14<sup>th</sup> Street and East Army Post Road Corridors. This group is in the midst of a consulting study that has formulated design guidelines for commercial development. Staff believes it is appropriate to request that elements of these design guidelines be made a condition of any commercial rezoning along these corridors. Otherwise, rezoning should be delayed until the anticipated provisions be formally adopted and implemented.

These guidelines require that commercial and office buildings shall be designed with 75% of all non-glazed exterior wall surfaces consisting materials of brick, split face concrete masonry units, stone, or EFIS/stucco. No more than 25% of this material requirement may be satisfied with split face concrete masonry units or EFIS/stucco or EFIS.

In addition to those provisions, staff recommends that freestanding signage be limited to only ground mounted or monument signs with a masonry, brick or stone pedestal. These types of signs are limited to 75% of the normal area earnings in "C-2". Freestanding signs are only allowed for businesses on parcels with frontage on Southeast 14<sup>th</sup> Street.

## SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation. Explained the applicant would be required to meet the stormwater retention requirements during site plan review.

Ed Arp, CEC, 2400 86<sup>th</sup> Street, Urbandale: Provided the original plan for comparison with the subject request. Noted it had received P&Z approval, but not Council approval. Indicated concerns previously were regarding residential being in the center of the site. Current proposal is commercial in the first two sections of the site. Attended a neighborhood meeting and the plan was well-received. The neighborhood was pleased that there was not residential in the middle

section. Buffering was discussed regarding the two uses and the grade change was discussed as well. Current sewers will be re-routed when the residential project goes in. Neighbors are opposed to a connection on the south from SE 14<sup>th</sup> to SE 15<sup>th</sup> Street from vehicular traffic. An easement has been reserved to allow a street to be put in if necessary in the future. Noted an easement would be provided but it would be a private drive; public traffic will not be allowed.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following individual spoke in favor of the request:*

Jim Bollard, 4007 SE 26<sup>th</sup> Street, President of the Bloomfield/Allen Township Neighborhood Association: Explained the buffering was a big issue between the proposed residential and the commercial. The neighbors are trying to work with the applicant regarding site maintenance. The neighbors are willing to support the C-2 with limitations as proposed.

Tom Akers, Southside Revitalization Partners: Would like to see the economic development done on E. 14<sup>th</sup>, but would like to see the applicant meet the building standards. Invited the developer to their meeting the first Wednesday of the month.

Larry Hulse: Suggested Mr. Akers communicate the wording of their building standards to staff. Noted the applicant's proposal is going to fit the vision the Partners have for the corridor.

Erik Lundy: Explained the wording on the conditions of the staff recommendation are directly from the regulations proposed by the Southside Revitalization Partners.

*There was no one in the audience to speak on this item.*

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Bruce Heilman: Moved staff recommendation on A to find the request not in conformance with the Community Character Plan.

Motion passed 11-0.

Bruce Heilman: Moved staff recommendation on B and C with the conditions noted.

David Cupp: Asked about adding the drainage to the motion.

Erik Lundy: Explained the applicant has to meet the drainage standards by code.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment



Item ZON 2006-00003

Date 2-8-06

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I (am) (am not) in favor of the request.

(Circle One)

**RECEIVED**  
FEB 09 2006  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name JERRY HORTON  
Signature Jerry Horton  
Address 4517 S.E. 14<sup>th</sup> ST

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

M+J Holding owns the property at  
4521 SE 14<sup>th</sup> ST. I would prefer the  
enter a new rezoning C-2 although  
I do not oppose the rezoning at  
the back side of the target property.

Item ZON 2006-00003

Date 2-7-06

I (am) (am not) in favor of the request.

(Circle One)

**RECEIVED**  
FEB 13 2006  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name NORMAN FORGET  
Signature Norman Forget  
Address PO BOX 244  
NORWALK, IA (50211)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Item ZON2006-00003

Date 2 10-06

I (am)  (am not) in favor of the request.

(Circle One)

RECEIVED

Print Name PAUL I. MONIK

FEB 13 2006

Signature Paul I. Monik

CITY DEVELOPMENT  
DEPARTMENT

Address 4385 S.E. 15TH CT.

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

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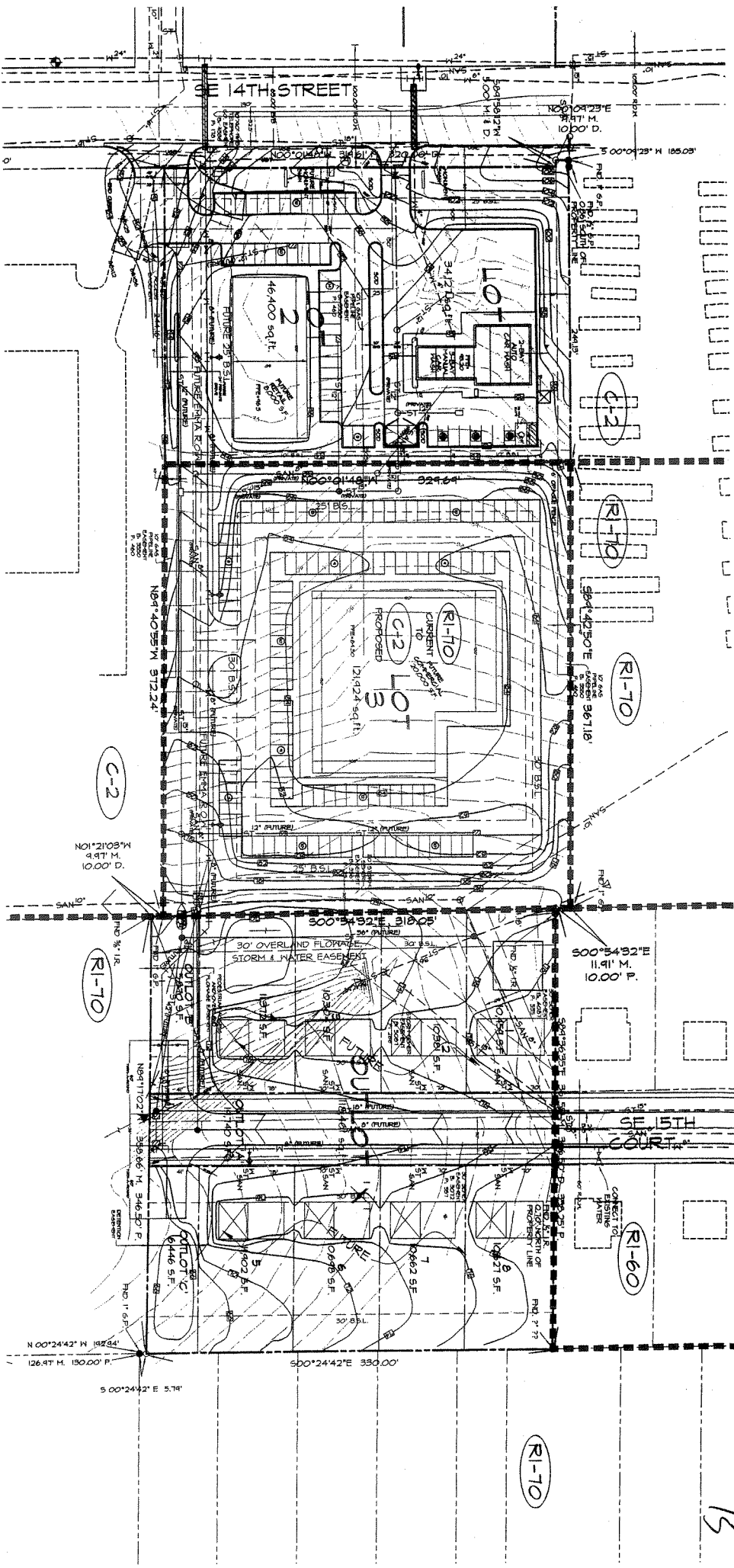
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REZONING SKETCH  
**FORGET PROPERTIES**  
**4411 SE. 14TH STREET**

OWNER/DEVELOPER  
 FORGET PROPERTIES  
 4214 ELBA STREET SUITE 10  
 DES MOINES, IOWA 50321  
 PH: 515/273-0014