



Date March 27, 2023

RESOLUTION SETTING PUBLIC HEARING REGARDING REQUEST FROM CHASING WATERFALLS, LLC (OWNER), REPRESENTED BY CHRISTOPHER THOMPSON (OFFICER) FOR THE PROPERTY LOCATED AT THE WEST HALF (TWO LOTS) OF 2215 SUNSET ROAD, TO AMEND PLANDSM CREATING OUR TOMORROW PLAN TO REVISE THE FUTURE LAND USE CLASSIFICATION FROM BUSINESS PARK TO INDUSTRIAL, AND TO REZONE THE PROPERTY FROM “EX” MIXED USE DISTRICT TO LIMITED “I1” INDUSTRIAL DISTRICT TO ALLOW THE USE OF THE PROPERTY FOR OUTDOOR STORAGE FOR A LANDSCAPING BUSINESS

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 2, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Chasing Waterfalls, LLC (Owner), represented by Christopher Thompson (Officer), for the proposed rezoning from “EX” Mixed Use District to Limited “I1” Industrial District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Business Park; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 2, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Chasing Waterfalls, LLC (Owner), represented by Christopher Thompson (Officer), to amend the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Business Park to Industrial; and

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on March 2, 2023, its members voted 12-0-1 in support of a motion to recommend **APPROVAL** of a request from Chasing Waterfalls, LLC (Owner), represented by Christopher Thompson (Officer), to rezone the Property from “EX” Mixed Use District to Limited “I1” Industrial District, to allow the use of the property for outdoor storage for a landscaping business, subject to the following conditions:

1. Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the “EX” District.
 - b. A Landscaping business.; and
2. Any outdoor storage shall only be accessory to a landscaping business, so long as outdoor storage is placed and screened to the satisfaction of the Planning Administrator.; and
3. Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).; and

WHEREAS, the Property is legally described as follows:



Roll Call Number

Agenda Item Number

27

Date March 27, 2023

LOTS ONE HUNDRED FORTY-ONE (141) AND ONE HUNDRED FORTY-TWO (142) IN VALLEY GARDENS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, 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 amendments to PlanDSM Creating Our Tomorrow comprehensive Plan and proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposals, shall be held at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on April 10, 2023, 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.

MOVED BY _____ TO ADOPT. SECOND BY _____.

FORM APPROVED:

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

(COMP-2023-000003; ZONG-2023-000005)

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

March 21, 2023

Communication from the City Plan and Zoning Commission advising that at their March 2, 2023 meeting, the following action was taken regarding a request from Chasing Waterfalls, LLC (owner), represented by Christopher Thompson (officer) to rezone the two (2) lots located on the west half of the property at 2215 Sunset Road from “EX” Mixed Use District to “I1” Industrial District, to allow outdoor storage for a landscaping business.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0-1 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 PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use Map designation from Business Park to Industrial.

Part C) Approval of the request to rezone the subject property from “EX” Mixed Use District to “I1” Industrial District, subject to the following conditions:

1. Use of the property shall be limited to the following:

- A. Any use as permitted and limited in the “EX” District.
 - B. A Landscaping business.
2. Any outdoor storage shall only be accessory to a landscaping business, so long as outdoor storage is placed and screened to the satisfaction of the Planning Administrator.
 3. Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use Map designation from Business Park to Industrial.

Part C) Staff recommends approval of the request to rezone the subject property from “EX” Mixed Use District to “I1” Industrial District, subject to the following conditions:

1. Use of the property shall be limited to the following:
 - A. Any use as permitted and limited in the “EX” District.
 - B. A Landscaping business.
2. Any outdoor storage shall only be accessory to a landscaping business, so long as outdoor storage is placed and screened to the satisfaction of the Planning Administrator.
3. Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to use the property for a landscaping business. The use would include an office within the building and outdoor storage of materials and equipment used for business operations. A rezoning from “EX” District to “I1” District is necessary to allow outdoor storage associated with the proposed business.
2. **Size of Site:** 27,637 square feet (0.63 acres).
3. **Existing Zoning (site):** “EX” Mixed-Use District.
4. **Existing Land Use (site):** Warehouse building with parking lot.

5. Adjacent Land Use and Zoning:

North – “EX”; Uses is a community garden owned by the City of Des Moines.

South – “EX”; Uses are warehousing and vacant land.

East – “EX”; Uses are auto repair and auto service.

West – “EX”; Use is undeveloped land.

6. General Neighborhood/Area Land Uses: The subject property consists of a warehouse building and parking area. The site is located at the northwest corner of the intersection of Sunset Road and Southwest 23rd Street in an area consisting primarily of commercial and warehouse uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Southwestern Hills Neighborhood. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on February 10, 2023, and the Final Agenda on February 24, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on February 10, 2023 (20 days prior to the public hearing) and February 20, 2023 (10 days prior to the public hearing) to the Neighborhood Associations 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 Services Department on the date of the mailing. The Southwestern Hills Neighborhood Association mailings were sent to George Davis, 3124 Southwest 29th Street, Des Moines, IA 50321.

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

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Business Park.

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 area 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 “Business Park” to “Industrial”. PlanDSM describes these designations as follows:

Business Park: Accommodates light industrial, office and employment uses along with limited complementary retail uses. Industrial uses in this category would produce little or no noise, odor, vibration, glare, or other objectionable influences, and would have little or no adverse effect on surrounding properties.

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 subject property is currently zoned “EX” District. The Zoning Ordinance describes “EX” district as, “intended for locations and corridors with a mix of light industrial and heavier commercial uses, accommodating higher levels of vehicular traffic than MX districts and a predominance of mid-scale employment uses, such as office, low intensity industrial, and warehouse spaces associated with offices.”

The applicant is proposing to rezone the subject property to “I1” District. The Zoning Ordinance describes “I1” district as, “intended for general industrial uses, warehousing, and transportation terminals.”

Staff believes that the proposed land use amendment and proposed rezoning would be consistent with the existing character of the surrounding area so long as any development is constructed in accordance with the recommended conditions of approval.

2. **Floodplain Regulations:** The subject property is located within a levee-protected area. Any future development would be subject to development restrictions pursuant to City Municipal Code Chapter 50 (Floodplains) for regulations and performance standards.
3. **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.
4. **Nature Features:** Any development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.
5. **Utilities:** The subject property has access to all necessary utilities. There are public storm sewers, sanitary sewers, and water within the Sunset Road public right-of-way.
6. **Planning and Design Ordinance:** Any future construction or development of the site 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.

SUMMARY OF DISCUSSION

Sreyoshi Chakraborty presented staff report and recommendation.

Chris Draper asked why the recommendation isn't for denial to give the applicant the option of a use variance from the Zoning Board of Adjustment.

Sreyoshi Chakraborty stated the recommendation from city staff is a limited "I1" with associated conditions.

Chris Draper asked what the benefit is for limited "I1", rather than expanded "EX".

Jason Van Essen stated EX zoning wouldn't allow this particular use. When we have a use that isn't allowed in EX but has limited impact to the surrounding area, city staff has been supportive with certain zoning conditions in place.

Abby Chungath asked if a non-landscaping business was to buy the property, would they need to rezone the property again.

Jason Van Essen stated no, the zoning condition would allow any use permitted in EX.

Carol Maher noted the property looked substantially different than the pictures provided in the staff presentation, as she visited the site on Wednesday, March 1st.

Sreyoshi Chakraborty stated the pictures were pulled from Google street view.

Carol Maher stated the fence is in bad shape and the parking lot is not fully paved.

Jason Van Essen stated the change of use does trigger a site plan, so they will be required to bring the site in conformance with current standards.

Katie McKain, BrownWinick Law firm, 666 Grand Avenue stated the outdoor storage would be located in the rear yard to the east of the building. Landscaping would be provided along the frontage and the requested screening would be provided.

Chris Draper asked if the EX district is problematic for the applicant.

Katie McKain stated yes, due to the proposed outdoor storage not being allowed within the EX zoning district.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Todd Gardner made a motion for:

Part A) The requested rezoning be found not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

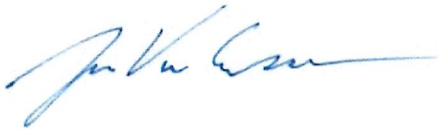
Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Plan Future Land Use Map designation from Business Park to Industrial.

Part C) Approval of the request to rezone the subject property from "EX" Mixed Use District to "I1" Industrial District, subject to the following conditions:

1. Use of the property shall be limited to the following:
 - A. Any use as permitted and limited in the "EX" District.
 - B. A Landscaping business.
2. Any outdoor storage shall only be accessory to a landscaping business, so long as outdoor storage is placed and screened to the satisfaction of the Planning Administrator.
3. Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

Motion passed: 13-0-1

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

From: [McKain, Katherine E.](#)
To: [Chakraborty, Sreyoshi](#)
Subject: RE: Zoning Determination - 2223 SW 23rd/2215 Sunset Rd
Date: Thursday, March 2, 2023 11:16:19 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.

Hi Sreyoshi,

We're in agreement with the Staff recommendations. It's our understanding based on the Staff Report that the planning staff recommends approving our rezoning request, provided the use is limited (as stated in the Report), outdoor storage shall only be an accessory use to our business, and that we complete the Site Plan requirements (which we were previously aware of).

Is there anything else?

I'm fine with moving this to consent. If moved to consent, do you still recommend attending the meeting?

Thanks,
Katie

From: Chakraborty, Sreyoshi <SChakraborty@dmgov.org>
Sent: Thursday, March 2, 2023 11:13 AM
To: McKain, Katherine E. <katherine.mckain@brownwinick.com>
Subject: RE: Zoning Determination - 2223 SW 23rd/2215 Sunset Rd
Importance: High

[CAUTION - EXTERNAL EMAIL] DO NOT reply, click links, or open attachments unless you have verified the sender and know the content is safe.

Katie,

Have you had a chance to look at the Staff recommendation sent out last week? If you and the applicant are good, we can recommend the Commission to move the item to Consent. Consent items are approved without discussion. Please let me know at your earliest convenience either way. Thank you!

Sreyoshi

From: McKain, Katherine E. <katherine.mckain@brownwinick.com>
Sent: Wednesday, February 22, 2023 7:37 AM



Updated on: 2/9/2023

1 inch = 93 feet



Updated on: 2/10/2023

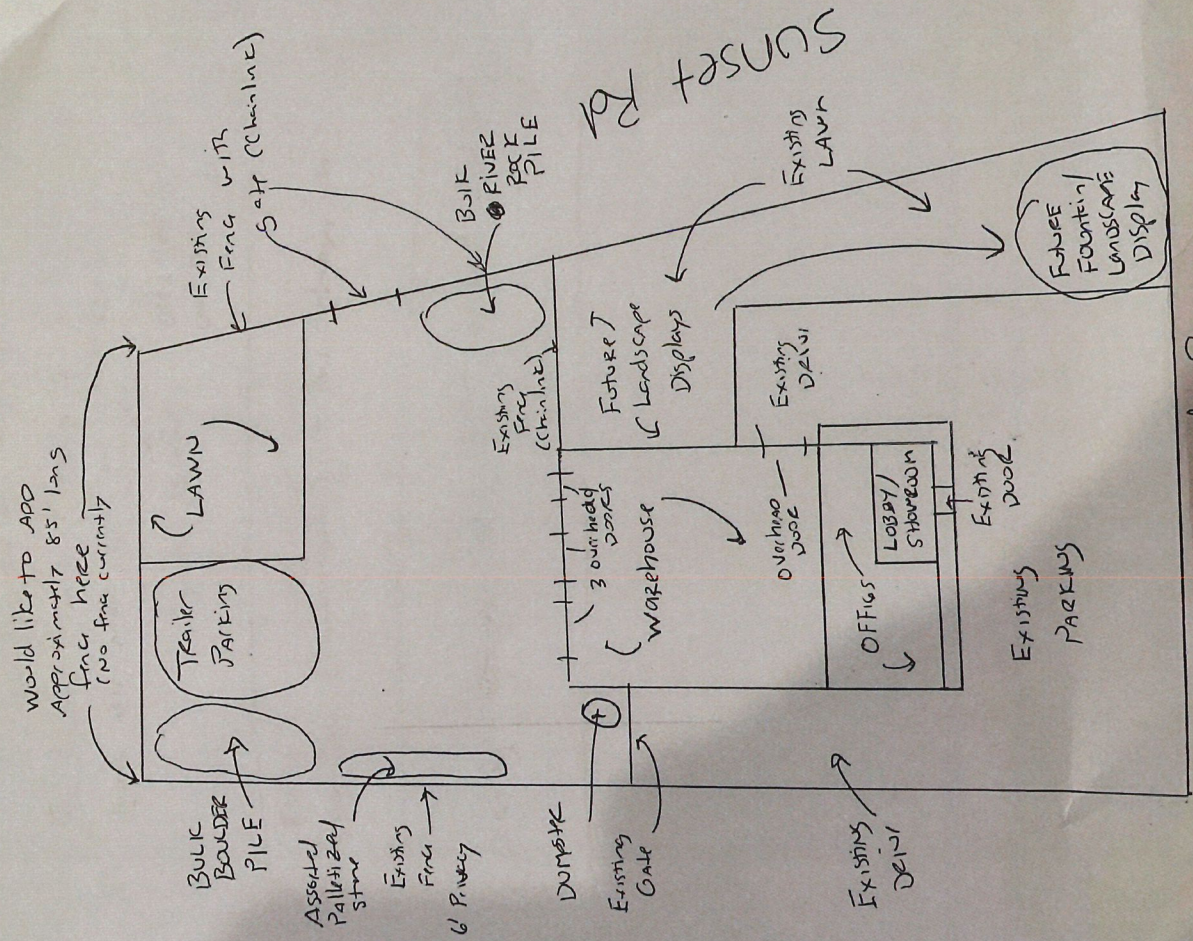
1 inch = 93 feet



68







SW 23rd St.



February 8, 2023

Name
Address
City, State Zip

Dear Neighbor:

I'm writing to let you know that I have submitted an application to the City of Des Moines to rezone my property located at the corner of SW 23rd Street and Sunset Road, commonly known as 2223 SW 23rd Street, Des Moines, Iowa (official address yet to be determined), and legally described as:

Lots One Hundred Forty-One (141) and One Hundred Forty-Two (142) in VALLEY GARDENS, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

I recently purchased these two lots from Sunset Property, LLC. These two lots were previously a part of the property known as 2215 Sunset Road, Des Moines, Iowa and used to be the location of the Schlarbaum Auto Body shop. I am currently working with the City to separate my lots from the lots still owned by Sunset Property, LLC. Once that is done, I should receive a new official address for the property.

I am asking the City to rezone my property to a classification of I-1 so that I may be permitted to use a portion of the property for outdoor storage of materials and equipment used in the operation of my business, Just Add Water.

Background on Just Add Water:

Just Add Water is water garden landscape business, that designs and builds water elements for our customers' yards, indoor spaces, and commercial spaces. We plan to use our new property as the base of our operations, where our administrative operations will be performed. We will primarily use the building as an office for our internal operations and a small showroom space where we can show our customers examples of our landscape designs.

We do not build or construct any of our water features at the property. All building and construction operations occur off-site, at our customers' property where the water garden will actually be installed.

Reason for Rezoning:

The property is currently zoned EX, which does permit me to use the property to operate my business on site. Unfortunately, the EX zoning district does not permit any outdoor storage

spaces. Therefore, I am required to rezone the property in order to use some of the outdoor space for storage of our building materials and equipment.

Let me assure you that any outdoor storage at the property will be done in a neat and orderly fashion. I will not let the property appear sloppy or unkempt and have every intention of keeping the property in pristine condition.

Neighborhood Meeting:

In compliance with the Code requirements, a Neighborhood Meeting will be held to provide you an opportunity to meet with me and discuss my intentions for the property and proposed rezoning.

The Neighborhood Meeting will be held the property on February 21st, 2023, from 3:00PM – 4:30PM. (see location marked on map below)

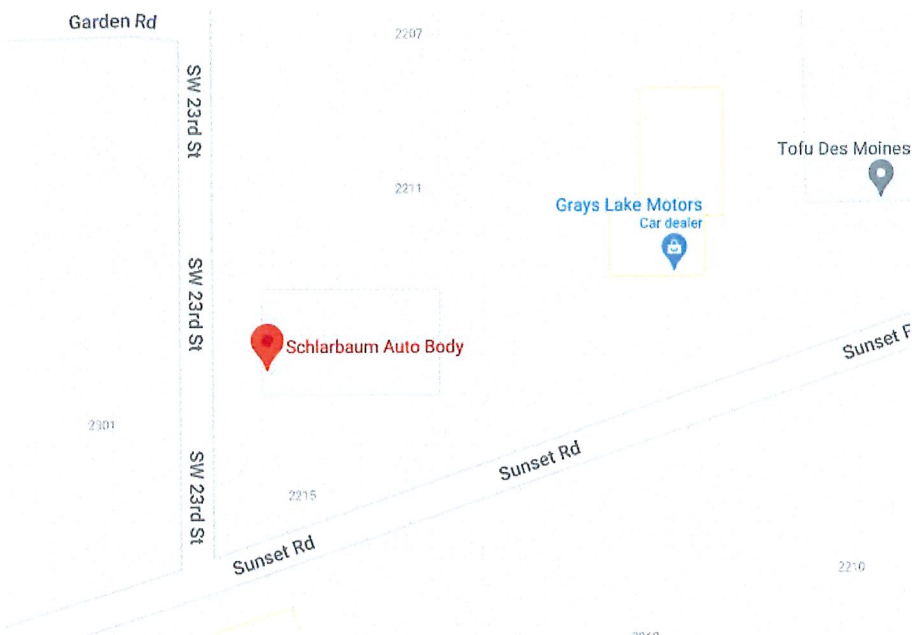
You are welcome to stop in at any time between 3:00PM – 4:30PM to discuss the rezoning with me. I will also plan to do a short presentation regarding the rezoning at 4:00PM.

At this meeting I will make every effort to illustrate how the property will be used and to answer any questions. Should you have questions prior to the meeting, please contact me via email at chris@iowawaterscapes.com.

Sincerely,

Chris Thompson

Chris Thompson
Manager of Just Add Water, LLC



From: [McKain, Katherine E.](#)
To: [Neighborhood Meeting](#)
Cc: [Chakraborty, Sreyoshi](#)
Subject: Neighborhood Meeting Summary - 2223 SW 23rd/2215 Sunset Road
Date: Wednesday, February 22, 2023 7:34:09 AM
Attachments: [Proof of Mailing Chasing Waterfalls \(02878401x9F897\).PDF](#)
[Letter for Neighborhood Meeting \(02877405x9F897\).DOC](#)
[Neighborhood Meeting Sign-in Sheet 2.21.23 \(02886723x9F897\).PDF](#)

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.

Good Morning,

Just Add Water held it's neighborhood meeting in connection with it's rezoning application. The meeting took place yesterday, February 21, 2023, from 3:00-4:30PM, at the subject property (2223 SW 23rd/2215 Sunset Rd).

Notice of the meeting was mailed by regular mail to the neighbors on February 8, 2023. Attached is a copy of the letter we sent to the neighbors. Also attached is a copy of the envelopes, which shows proof of mailing in compliance with the spreadsheet received from the City.

The owner/applicant, Chris Thompson, was present to answer any questions received. Attached is our sign-in sheet for the meeting. Only one person attended – Mr. Chris Green. Mr. Green said he owns a local business and was asked to attend by the SW Neighborhood Association Board. Mr. Green did not raise any concerns and said that neither him nor the SW Neighborhood Association had any objection to our rezoning request.

Please let us know if you have any questions regarding the neighborhood meeting.

Thanks,
Katie

KATHERINE MCKAIN
ATTORNEY

P 515-242-2433
F 515-283-0231
katherine.mckain@brownwinick.com
(she/her/hers)

666 Grand Avenue | Suite 2000 Ruan Center, Des Moines IA 50309
Main Phone 515-242-2400 | Toll Free 1-888-282-3515

Banner



Brown, Winick, Graves, Gross and Baskerville, P.L.C.

Notice: This email (including any attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§2510-2521, is confidential and may be legally privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.

Item: ZONG-2023-000005

Date: 2

Please mark one of the following:

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

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 FEB 28 2023

Titleholder Signature: [Signature]

Name/Business: Southern Hills Association

Impacted Address: George Davis

Comments: no opposition

Item: ZONG-2023-000005

Date: 2/27/23

Please mark one of the following:

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

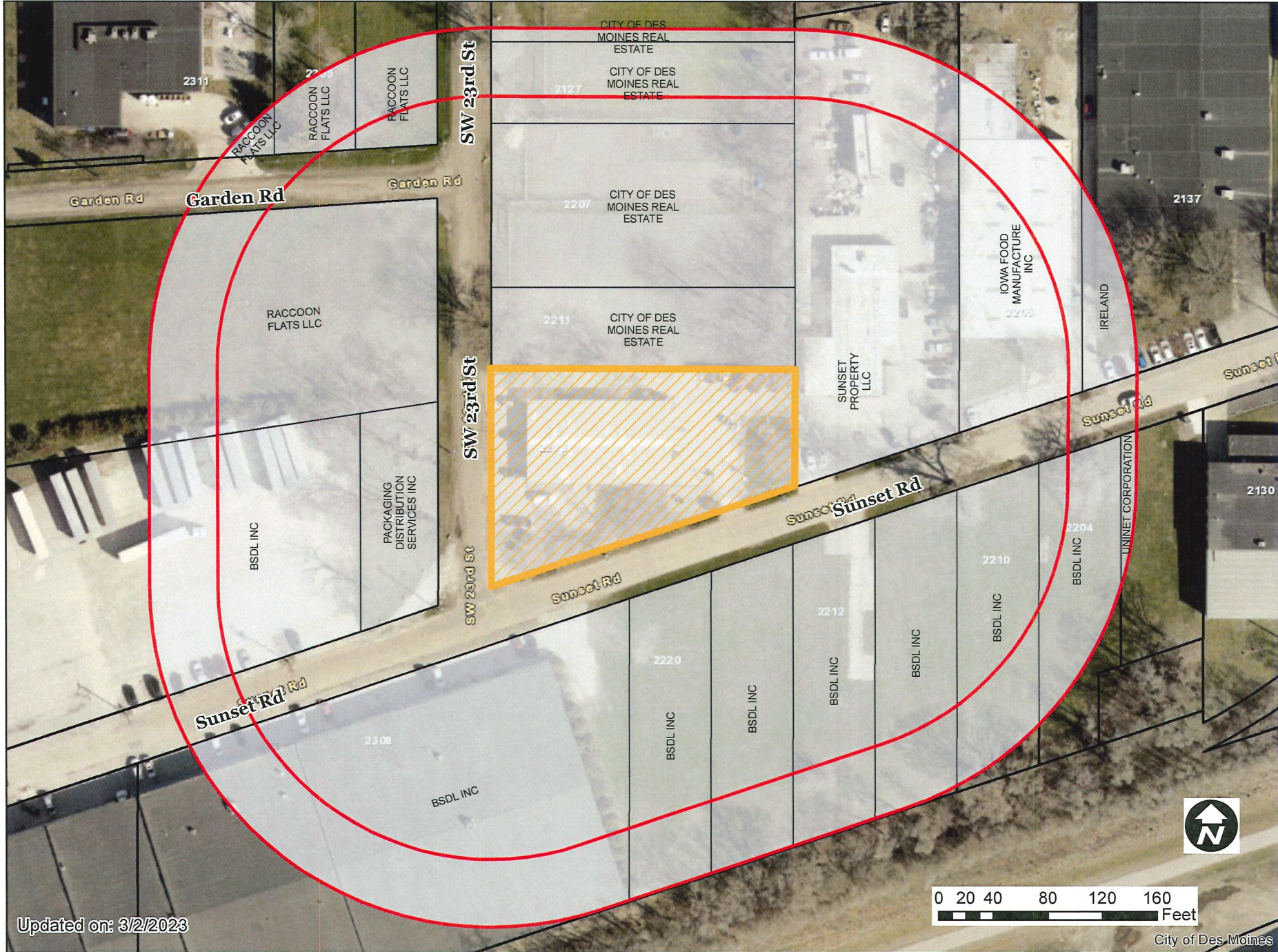
Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 MAR 01 2023

Titleholder Signature: [Signature]

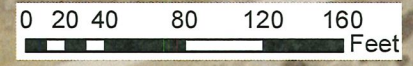
Name/Business: PACKAGING DISTRIBUTION SERVICES, INC.

Impacted Address: 2308 SUNSET RD.

Comments: _____

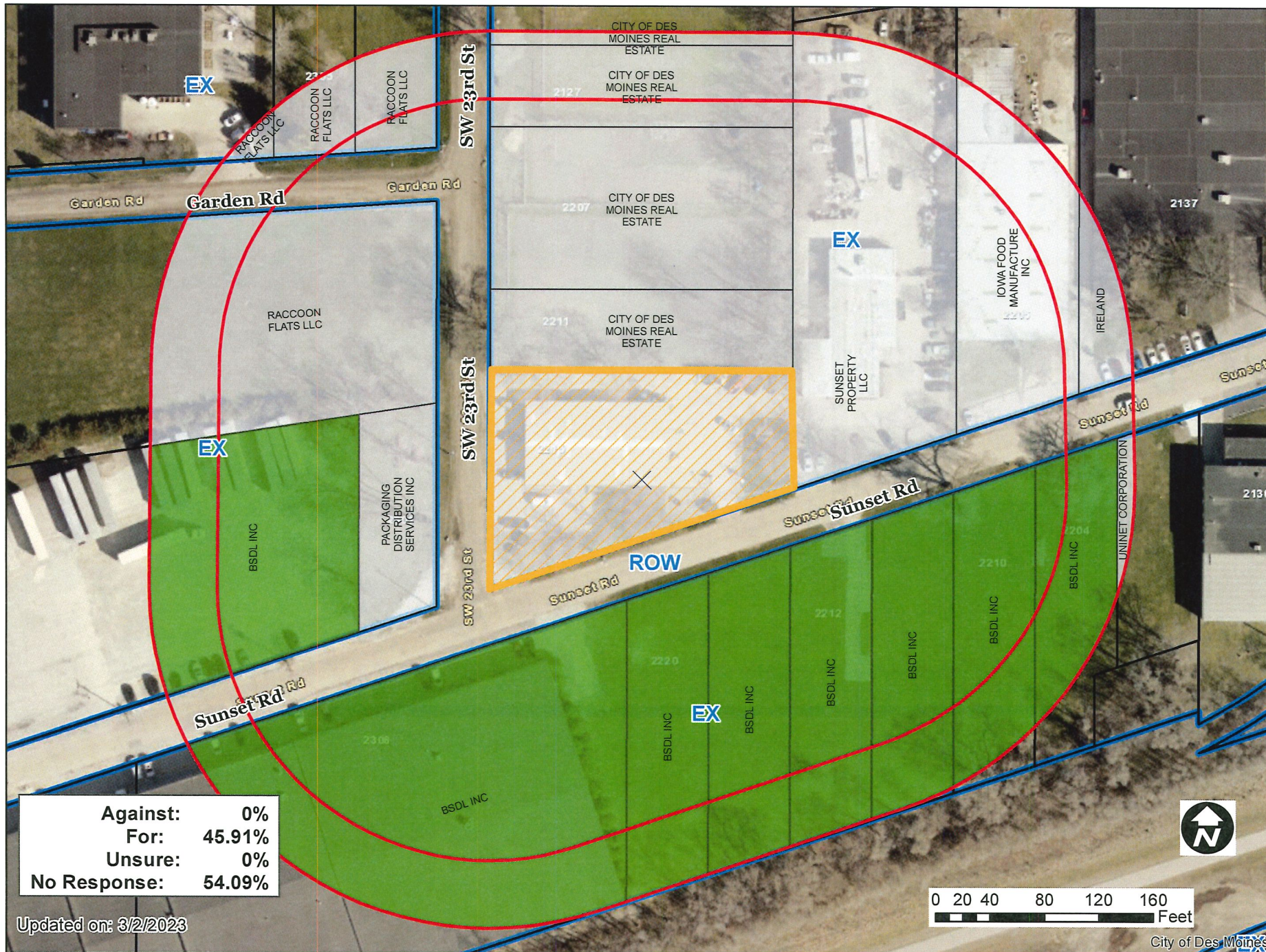


Updated on: 3/2/2023



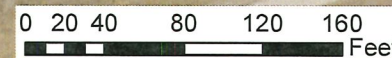
City of Des Moines

1 inch = 93 feet



Against:	0%
For:	45.91%
Unsure:	0%
No Response:	54.09%

Updated on: 3/2/2023



City of Des Moines

1 inch = 93 feet