

.....
Date October 2, 2023.....

RESOLUTION SETTING PUBLIC HEARING REGARDING REQUEST FROM 1525 HIGH STREET, LLC (OWNER), REPRESENTED BY EDWARD MASSMAN (OFFICER), TO REZONE THE PROPERTY LOCATED AT 1525 HIGH STREET FROM “RX1” MIXED USE DISTRICT TO “MX2” MIXED USE DISTRICT, TO ALLOW EXPANSION OF AN EXISTING BREWERY

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 7, 2023, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from 1525 High Street, LLC (owner), represented by Edward Massman (officer), for property located at 1525 High Street, to rezone the property from “RX1” Mixed Use District to “MX2” Mixed Use District, to allow expansion of an existing brewery and restaurant, 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:

LOTS 6, 7 AND 8 IN BLOCK “E” IN SUBDIVISION OF LOT NO. 6 OF THE PURSLEY ESTATE, CONTAINING 13.06 ACRES, 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 rezoning is 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 October 23, 2023 at which time the City Council will hear both those who oppose and those who favor the proposal.
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.



Roll Call Number

.....

Agenda Item Number

364

Date October 2, 2023

MOVED BY _____ TO ADOPT.

SECOND BY _____.

FORM APPROVED:

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

(ZONG-2023-000049)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
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

September 12, 2023

Communication from the City Plan and Zoning Commission advising that at their September 7, 2023 meeting, the following action was taken regarding a request from 1525 High Street, LLC (Edward Massman, Officer) to rezone the property located at 1525 High Street from “RX1” Mixed Use District to “MX2” Mixed Use District, to allow expansion of an existing brewery and restaurant.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 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 requested rezoning be found in conformance with the existing PlanDSM future land use designation of Downtown Mixed Use.

Part B) Approval of the proposed rezoning of the subject property from “RX1” Mixed Use District to “MX2” Mixed Use District.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with the existing PlanDSM future land use designation of Downtown Mixed Use.

Part B) Staff recommends approval of the proposed rezoning of the subject property from "RX1" Mixed Use District to "MX2" Mixed Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The existing use (Brewery with Taproom) is considered a legal non-conforming use in the "RX1" Mixed Use District. Therefore, the requested rezoning to "MX2" District is necessary in order to allow an expansion (900-square foot cooler addition).

Any future building addition or site improvements would require a site plan amendment and will be subject to compliance with an approved site plan. The proposed use is also subject to supplemental use regulations per Section 134-3.6.1.

2. **Size of Site:** Approximately 20,831 square feet (0.48 acre).
3. **Existing Zoning (site):** "RX1" Mixed Use District.
4. **Existing Land Use (site):** The subject property contains a 6,228-square foot building and outdoor patio that are occupied by a brewery with a taproom component (Lua). The site also contains a surface parking lot. The existing building structure has a minimal setback from the front (south) property along High Street.
5. **Adjacent Land Use and Zoning:**
 - North** – "NX2a"; Uses are multiple-household residential building and surface parking lot.
 - South** – "RX1", "MX2"; Uses are medical offices and undeveloped land.
 - East** – "MX2"; Uses are restaurant tavern use.
 - West** – "NX2a"; Uses are multiple-household residential building and surface parking lot.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of High Street in between 15th and 16th Streets. The area contains a mix of residential, office and small-scale commercial, and public and institutional uses.
7. **Applicable Recognized Neighborhood:** The subject property is located in the Sherman Hill Neighborhood and within 250 feet of the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on August 18, 2023 and of the Final Agenda on September 1, 2023.

Additionally, separate notifications of the hearing for this specific item were mailed on August 18, 2023 (20 days prior to the public hearing) and August 28, 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 Services Department on the date of the mailing. The Sherman Hill Neighborhood Association notices were sent to Angela Broughton-Romain, 731 16th Street, Des Moines, IA 50314. The Downtown Des Moines Neighborhood Association notices were sent to Brandon Brown, 120 SW 5th Street, Unit 101, Des Moines, IA 50309.

The applicant is required to conduct neighborhood outreach. They will be available to provide a summary of that outreach during the public hearing.

8. Relevant Zoning History: On November 28, 2018, the Zoning Board of Adjustment by Docket No. ZON-2018 00227 granted a Conditional Use for a tavern selling alcoholic liquor, wine, and/or beer, a Variance of 25 feet less than the minimum required 25-foot front yard setback, a Variance to the definition of "sign, freestanding monument", and an Exception of 4 feet over the maximum 8 feet of height allowed for a freestanding sign that is located less than 25 feet from the front property line, to allow use of the 6,228-square foot building, and approximately 3,000 square feet of outdoor space to the east of the structure, for a tavern that would include a brewery as an accessory use, where the existing structure has a minimal setback from the front (south) property along High Street, and installation of a 12-foot tall freestanding sign without a sign base in accordance with the submitted design, subject to the following conditions:

1. Any business selling alcoholic liquor, wine, and/or beer shall operate in accordance with the necessary permits obtained through the Office of the City Clerk as approved by the City Council.
2. Any brewery use on the premise shall be accessory to a tavern use, as follows:
 - a. The tavern must occupy a minimum of 60% of the total building square footage. The brewery/production area may not exceed 40% of the total building square footage.
 - b. No more than 50% of total sales revenue shall be derived from off-site distribution.
3. Any business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control.
4. Any outdoor speakers or amplified sound shall only be in accordance with the appropriate sound permit. While the premise is allowed to obtain a Class E permit to allow for background sound that is auditory in nature only, any special events requiring a less restrictive sound permit shall be limited to two (2) calendar days within any given month and any such event shall cease by 10:00 PM.
5. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
6. The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing any loitering on the premises.
7. The business shall not dispense alcoholic beverages from a drive-through window.
8. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all

trash and debris from the premises and adjoining public areas on a daily basis.

9. Any renovation on the site shall be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the City's Permit and Development Center.
10. If the Zoning Enforcement Officer determines at any time that the operation of such a business becomes a nuisance, exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, or violates the requirements of City Code Section 134-954(c), the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use Permit.

On December 16, 2019, property was rezoned from "C-2" District to "RX1" Mixed Use District as part of the Citywide rezoning.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Downtown 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. **PlanDSM Creating Our Tomorrow:** The subject property is designated as "Downtown Mixed Use" on the Future Land Use Map. PlanDSM describes this designation as follows:

DOWNTOWN MIXED USE

Allows mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.

The applicant is proposing to rezone the property from "RX1" Mixed Use District to "MX2" Mixed Use District. The Zoning Ordinance states that "MX2" is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking. Building types allowed in this district include Storefront, Civic Building and Principal Use Parking Structure.

The requested rezoning to "MX2" District would be in conformance with the land use designation of Downtown Mixed Use.

2. **Planning and Design Ordinance:** Any expansion of the existing building 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 submit a Site Plan Amendment for review.



- 3. Limited Fabrication and Production:** Any proposed expansion of brewing and distribution activities would be considered a “Limited Fabrication and Production” use, per City Code Section 134-3.6.1, and may require obtaining a Conditional Use Approval from the Board of Adjustment.

SUMMARY OF DISCUSSION

Sreyoshi Chakraborty presented staff report and recommendation.

Carol Maher asked where the 900 square foot addition will be located.

Sreyoshi Chakraborty stated if the rezoning is approved, they would submit a revised site plan that would show the details of that addition. Based on the previous site plan, it would most likely be on the east side of the building at its rear near the existing cold storage.

Applicant was not present to speak.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Todd Garner made a motion for:

Part A) The requested rezoning be found in conformance with the existing PlanDSM future land use designation of Downtown Mixed Use.

Part B) Approval of the proposed rezoning of the subject property from “RX1” Mixed Use District to “MX2” Mixed Use District.

THE VOTE: 14-0

Respectfully submitted,



Bert Drost, AICP
Deputy Planning & Urban Design Administrator

BAD:tjh





Updated on: 8/16/2023

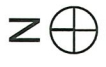
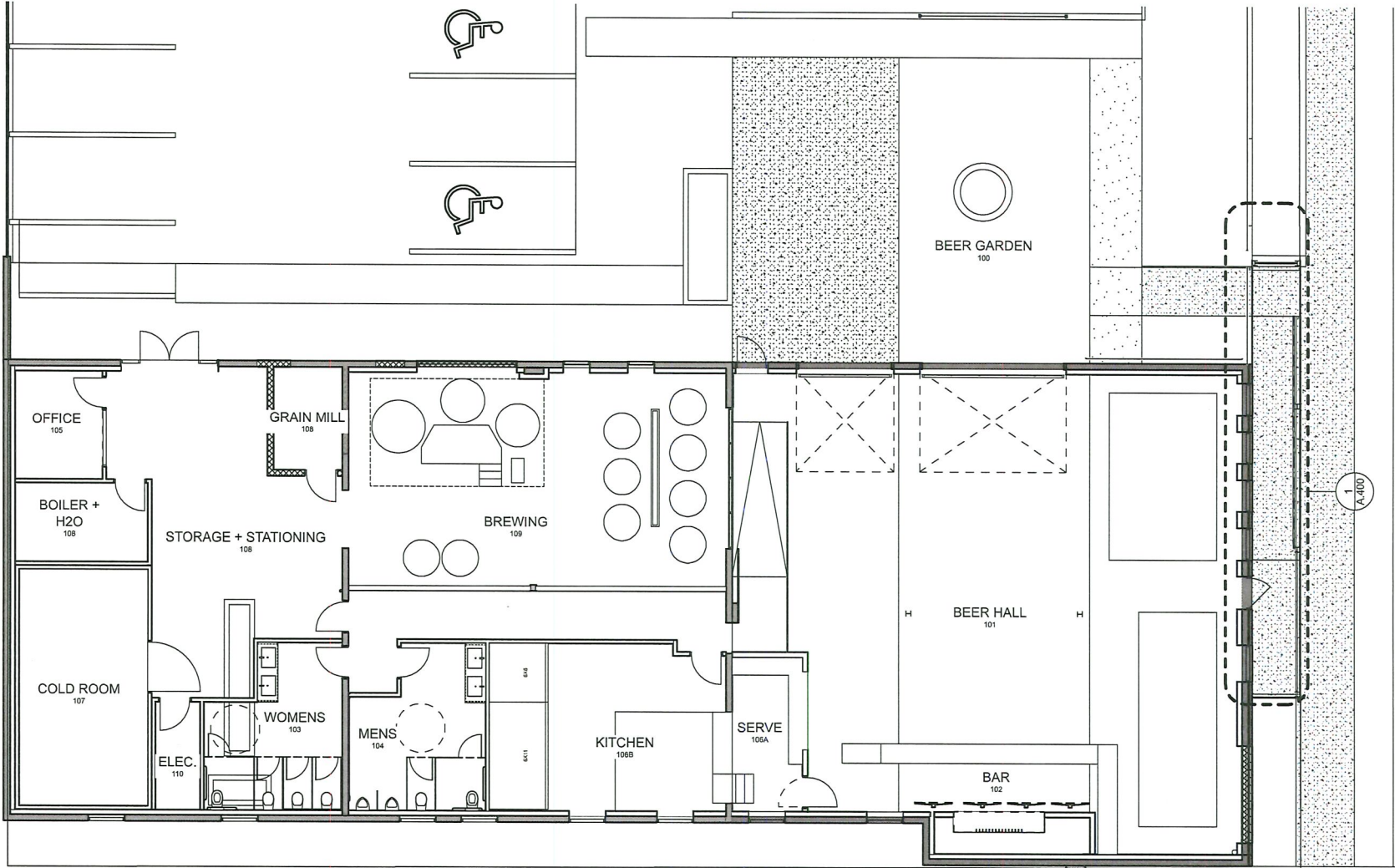
City of Des Moines











1
A.0

PRELIMINARY FLOOR PLAN

SCALE: 3/32" = 1'-0"

DATE : 02.22.19
REFERENCE : FLOOR PLAN
A.0

LUA BREWING COMPANY
1525 HIGH STREET
DES MOINES, IA 50309
2019.30

GNITSHOT
ARCHITECTURE
P L L C



30

Scott Selix
Lua Brewing Company
1525 High Street
Des Moines, IA 50323
scott@luabeer.com
515.770.4138

August 23, 2023

Re: Notice and Meeting on Rezoning of Property at 1525 High Street

Dear Property Owner:

I am the owner of Lua Brewing at 1525 High Street in Sherman Hill. I am writing this letter to give you notice of proposed rezoning for the property at 1525 High Street.

We are not changing any of the operations at Lua. We are asking for rezoning to bring Lua into compliance with current zoning regulations.

When we opened Lua in 2019, we were allowed to operate as a brewery under our current zoning of RX with a Conditional Use Permit (CUP) to allow for artisan manufacturing. Today, manufacturing under a CUP with RX zoning is no longer allowed. While our current use is grandfathered in (meaning rezoning is not required for Lua to continue operating as we have been), we nevertheless are seeking to bring our zoning into compliance with current regulations.

Once and if we achieve rezoning, we have plans for small improvements (more cold storage, some remodeling/redecorating, etc.) on the property that may require permitting, and achieving permitting for these things is only possible if our use meets current zoning requirements.

We will be hosting a neighborhood meeting regarding this proposed rezoning at Lua Brewing, 1525 High Street, Des Moines, IA 50309 on August 30, 2023 at 3:00pm CST. The meeting will take place at the large harvest table in the taproom, immediately adjacent to the south (main) door.

You are receiving this letter because you own property within 250 feet of 1525 High Street. Please plan to attend this meeting if you would like to share any support or concerns. I am also available via the phone number and email above for you to share any support or opposition. I am required to report all feedback to the city of Des Moines in conjunction with our application, so your feedback will be passed on provided it is received prior to or during the August 30, 2023 neighborhood meeting. You are also welcome to reach out directly to the city.

Please reach out to me if you have any questions. My contact info is at the top. Thank you very kindly!

s/ Scott Alan Selix

Scott Selix
Co-Founder

From: [Scott Selix](#)
To: [Neighborhood Meeting](#)
Subject: Neighborhood Meeting Report for 1525 High Street
Date: Tuesday, September 5, 2023 11:05:50 AM
Attachments: [Rezoning Letter Ltr.docx](#)
[image0 \(2\).png](#)

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.

Hello,

I am writing this email to notify you of the neighborhood meeting held in conjunction with the application for rezoning for 1525 High Street.

The meeting occurred on Wednesday, August 30 at 3:00pm CST at Lua Brewing (1525 High Street).

I sent out the attached letter to the list of addresses provided by the city of Des Moines on August 24, 2023.

No one attended the meeting. I did, however, receive two voices in support of the application. I received a phone call from Paula Noonan, CEO of the Polk County Medical Society (1520 High Street). She asked me the details of what we wanted to do. I told her we are interested in potentially installing an outdoor cooler, and that we couldn't do any permitted work without coming up to current zoning code. She said, with that information, that she supported the application. I also received a text message from Eric Ingvall, the owner of the Murillo flats (611 16th Street) expressing that he had no concerns. I have attached a screenshot of that text message.

I am happy to answer any other questions you may have. Thank you for your consideration.

--

Scott Selix
Lua Brewing Company
Either/Or DSM
Climbing Kites
c: 515.770.4138
scott@luabeer.com

Item: ZONG-2023-000049

Date: 9/4/2023

Please mark one of the following:

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

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
SEP 07 2023

Titleholder Signature: Angela Broughton

Name/Business: Angela Broughton - Romain

Impacted Address: Sherman Hill Association
731 16th St

Comments: _____

Item: ZONG-2023-000049

Date: 8-31-2023

Please mark one of the following:

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

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
SEP 05 2023

Titleholder Signature: _____

Name/Business: Polk Co. Med. Society

Impacted Address: 1520 High Street

Comments: Request Does not impact surrounding businesses.

Item: ZONG-2023-000049

Date: 8/30/2023

Please mark one of the following:

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

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
SEP 05 2023

Titleholder Signature: _____

Name/Business: Hoyt Sherman Place

Impacted Address: 1501 Woodland Ave DSM 50309

Comments: Great Local Business!


Item: ZONG-2023-000049

Date: _____

Please mark one of the following:

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

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
SEP 05 2023

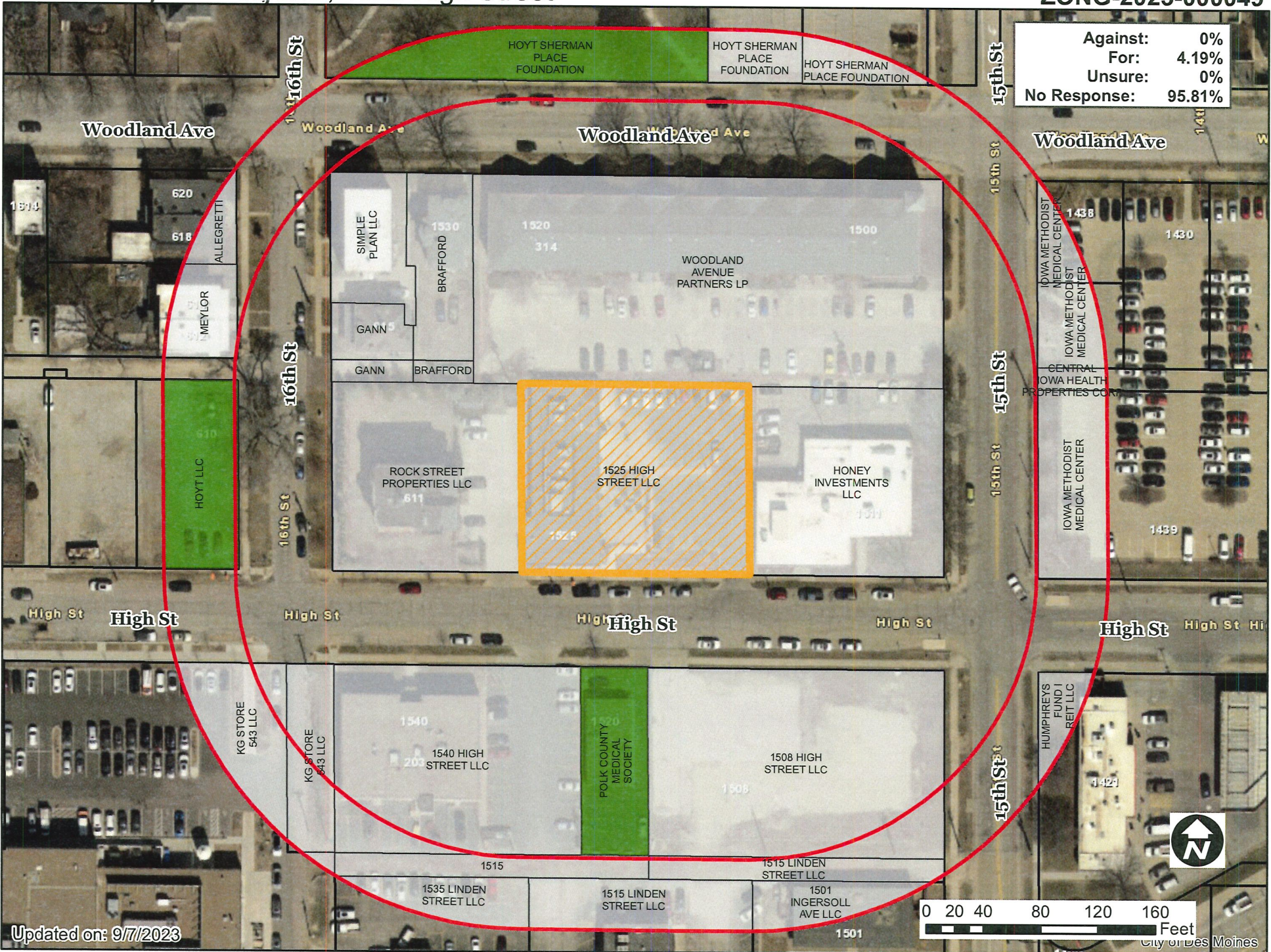
Titleholder Signature: 

Name/Business: HOYT LLC / High St. LOAN

Impacted Address: 1400 High St.

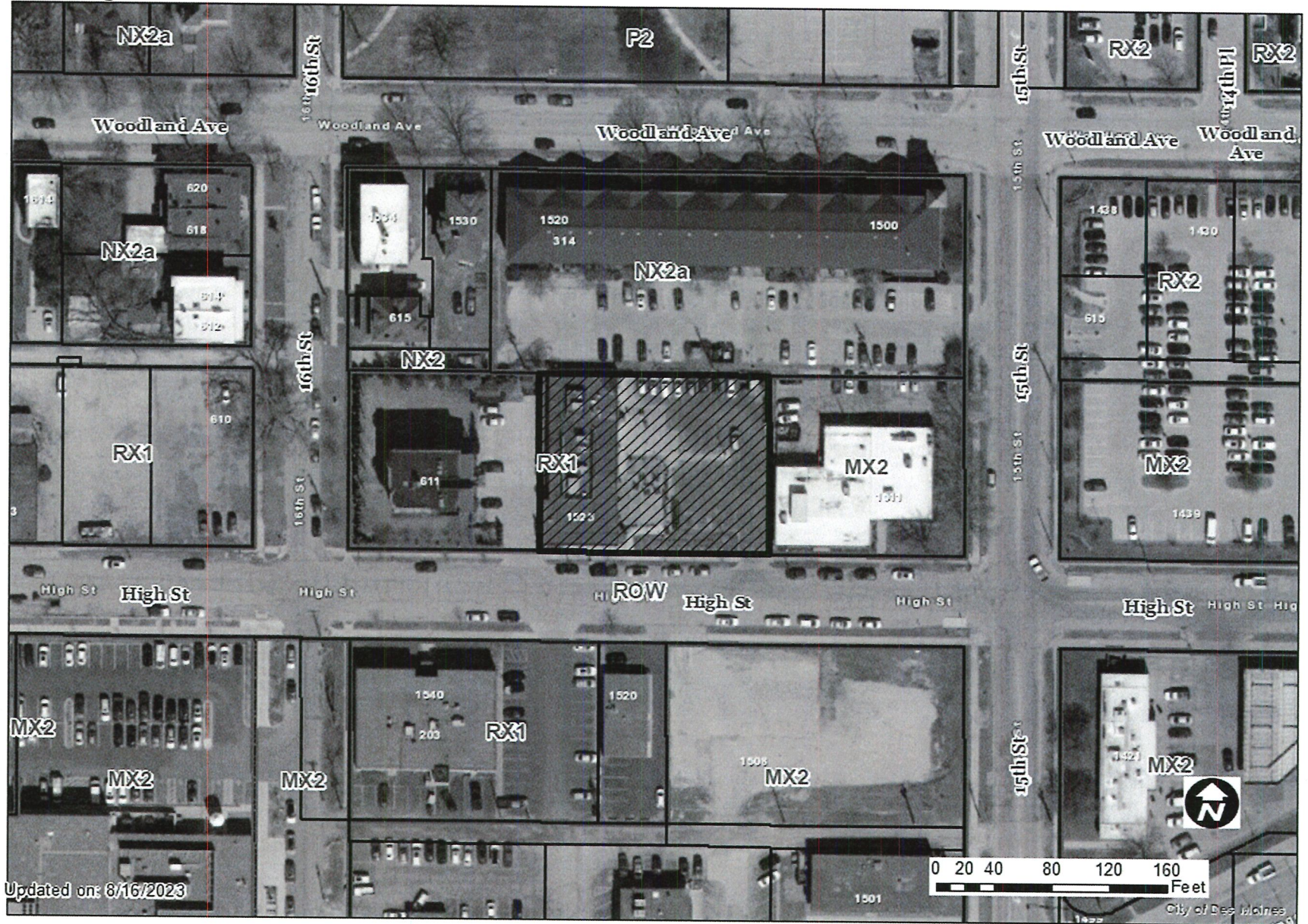
Comments: _____

Against:	0%
For:	4.19%
Unsure:	0%
No Response:	95.81%



1525 High Street, LLC, 1525 High Street

ZONG-2023-000049



Updated on: 8/16/2023

1 inch = 89 feet