

Date October 23, 2023

RESOLUTION HOLDING PUBLIC HEARING ON REQUEST FROM GERARDO PEREZ (OWNER) TO AMEND PLANDSM TO REVISE THE FUTURE LAND USE DESIGNATION AND TO REZONE THE PROPERTY LOCATED AT 415 EAST EUCLID AVENUE

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 Gerardo Perez (Owner), for the proposed rezoning from “N5” Neighborhood District to “RX1” 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 on September 7, 2023, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from Gerardo Perez (Owner), for the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation for the subject property from Low Density Residential to Neighborhood Mixed Use; and

WHEREAS, the City Plan and Zoning Commission has further 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 Gerardo Perez (Owner), to rezone the Property from “N5” Neighborhood District to “RX1” Mixed Use District, to bring the existing retail use into conformance with zoning requirement and to allow use of the parking lot for a food truck (mobile vendor); and

WHEREAS, the Property is legally described as follows:

LOT 1 IN BLOCK 11 IN PLAT ONE OF AUBURN HEIGHTS, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.;
and

WHEREAS, on October 2, 2023, by Roll Call No. 23-1323, 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 October 23, 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



Roll Call Number

Agenda Item Number

67

Date October 23, 2023

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 Neighborhood Mixed Use is hereby approved.
3. The proposed rezoning of the Property, as legally described above, from “N5” Neighborhood District to “RX1” Mixed Use District, to bring the existing retail use into conformance with zoning requirement and to allow use of the parking lot for a food truck (mobile vendor), 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-2023-000044)(COMP-2023-000025)

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 Gerardo Perez (owner) to rezone the property located at 415 East Euclid Avenue from “N5” Neighborhood District to “RX1” Mixed Use District, to bring the existing retail use into conformance with zoning and to allow use of the parking lot for a food truck (mobile vender).

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 not in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the requested amendment to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use.

Part C) Approval of the requested rezoning from “N5” Neighborhood District to “RX1” Mixed Use District.

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 requested amendment to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of the requested rezoning from "N5" Neighborhood District to "RX1" Mixed Use District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to rezone the property to "RX1" Mixed Use District in order to bring the existing retail use into conformance with zoning requirements and to allow use of the existing parking lot for a mobile food truck. The site is currently used for a "Retail Sales – Limited" use (Almost Free), which is a legal non-conforming use in the "N5" Neighborhood District. This use would retain its legal non-conforming status so long as it doesn't cease for a period of at least 6 months, expand, or convert to another use.
2. **Size of Site:** 7,996 square feet (0.18 acres).
3. **Existing Zoning (site):** "N5" Neighborhood District.
4. **Existing Land Use (site):** The subject property consists of a 2,300-square foot building occupied by a retail store and a paved surface parking lot with ten (10) motor vehicle parking spaces.
5. **Adjacent Land Use and Zoning:**
 - North** – "N5"; Uses are low-density residential.
 - South** – "N5"; Uses are low-density residential.
 - East** – "N5"; Uses are an office use and low-density residential.
 - West** – "N5"; Uses are low-density residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the south side of East Euclid Avenue between Columbia Street and Bowdoin Street. It is located in an area consisting predominantly of one-household residential uses with higher intensity commercial uses along Euclid Avenue to the west.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Highland Park Neighborhood Association. 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 Development Division on the date of the mailing. The Highland Park Neighborhood Association notices were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313.

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

- 8. Relevant Zoning History:** On September 27, 2007, The Zoning Board of Adjustment by Docket No. ZON2007-00157 approved an Exception to the one (1) year time period to allow the reuse of the existing structure and property for a furniture retail store after being vacant since discontinuance of a restaurant use on October 1, 2005, subject to the following conditions:

1. Provision of parking lot curbing and striping.
2. Provision of buffering and landscaping along the south property line in conformance with the City's Landscaping Standards.
3. Prohibition of vehicular access to the parking lot from Bowdoin Street.
4. Compliance with all applicable building codes and issuance of all necessary permits and a new Certificate of Occupancy by the Permit and Development Center.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential. The subject property is located in close proximity to a Neighborhood Node centered in the vicinity of East Euclid Avenue and Second Avenue, which has higher intensity commercial uses.

- 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 "Low Density Residential" to "Neighborhood Mixed Use". 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.

Neighborhood Mixed Use: Small scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation

corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development.

The subject parcel is currently zoned "N5" Neighborhood District. The Zoning Ordinance describes "N5" district as, "intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominantly in the Victorian, Revival, and Arts and Crafts styles pursuant to House D building type in section 135-2.16 of this code."

The applicant is proposing to rezone the subject parcel to the "RX1" Mixed Use District. The Zoning Ordinance describes "RX1" district as, "intended for transitional areas between MX districts and N districts, providing for residential and office buildings at a scale and intensity appropriate for corridors adjacent to low scale neighborhoods."

The subject property is located on the East Euclid transportation corridor and also along a DART transit route with a bus stop immediately adjacent to the site, providing easy access to the existing retail business and proposed food truck use. The retail building has been in existence for many years at this location. The proposed rezoning would legitimize a use that has already been in existence. Staff believes this rezoning to "RX1" District is appropriate for this property since it is the least intense mixed use zoning district.

- 2. Mobile Food Vendors:** Any future placement and operation of a food truck (Food Vendor) on the subject property shall be in compliance with regulations pursuant to Chapter 78, Article V, of the City's Municipal Code.

SUMMARY OF DISCUSSION

Abby Chungath asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison 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 requested amendment to revise the future land use classification from Low Density Residential to Neighborhood Mixed Use.

Part C) Approval of the requested rezoning from "N5" Neighborhood District to "RX1" Mixed Use District.

THE VOTE: 14-0

Respectfully submitted,

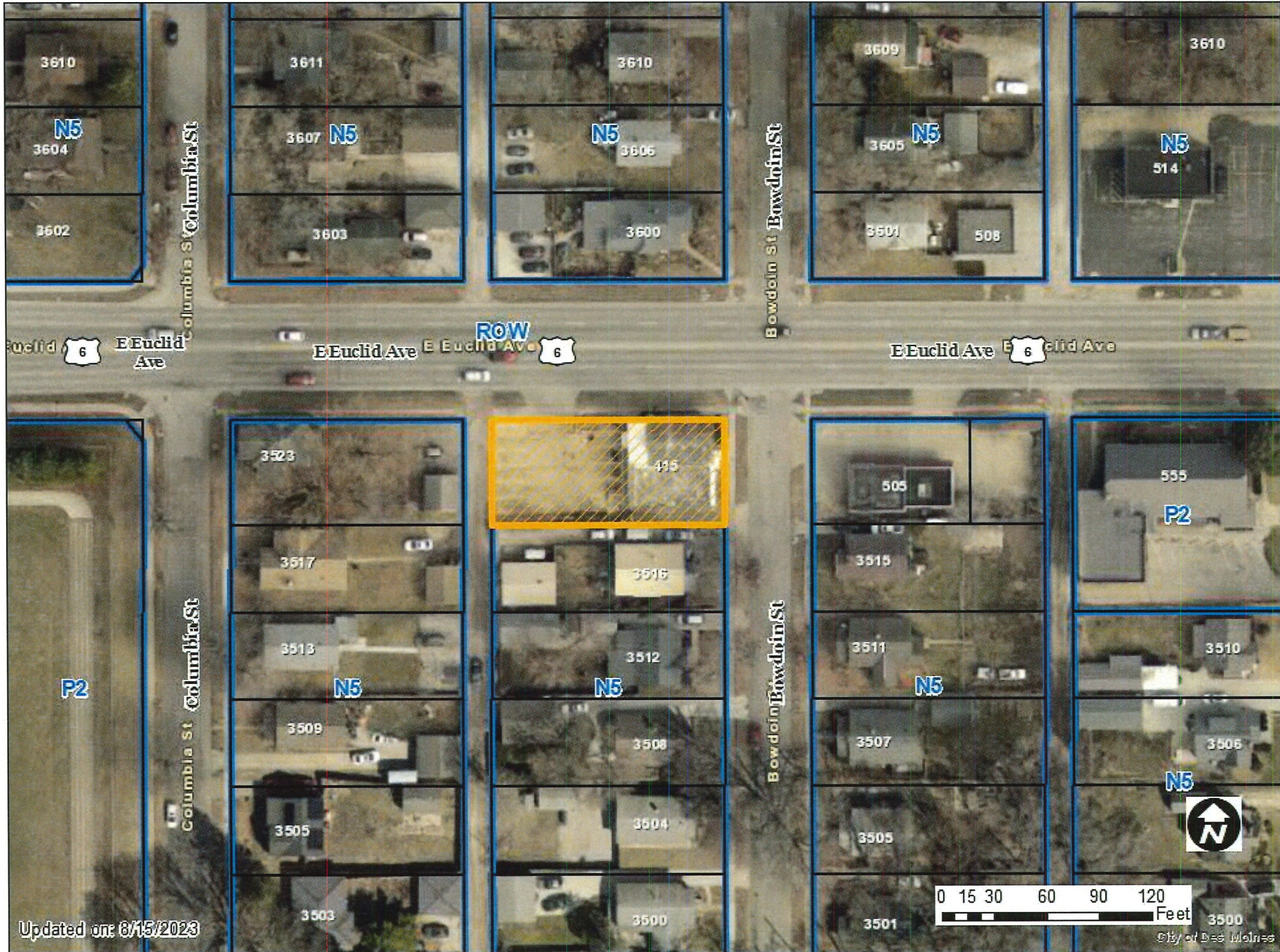
Bert Drost

Bert Drost, AICP
Deputy Planning & Urban Design Administrator

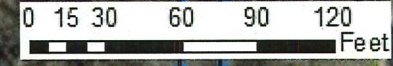
BAD:tjh

Gerardo Perez, 415 East Euclid Avenue

ZONG-2023-000044

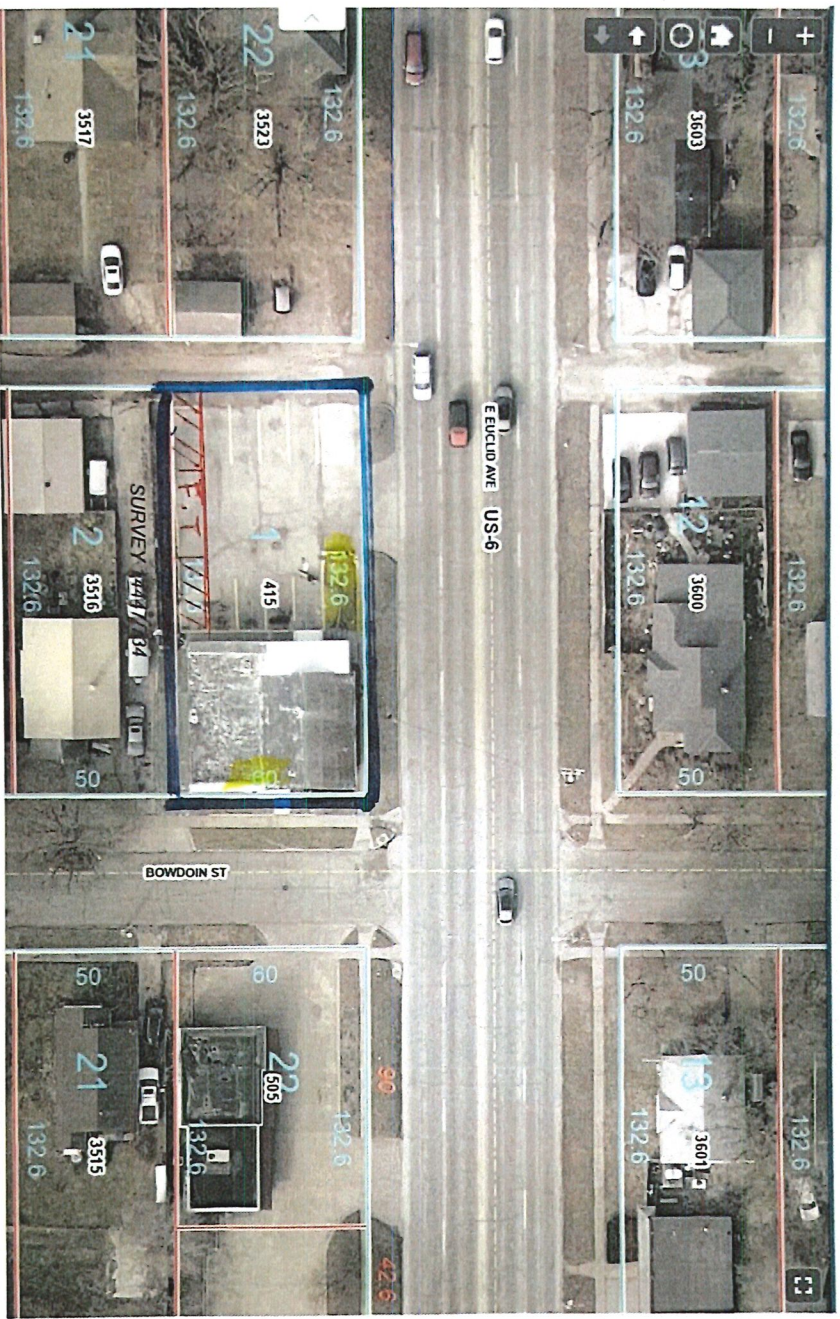


Updated on: 8/15/2023



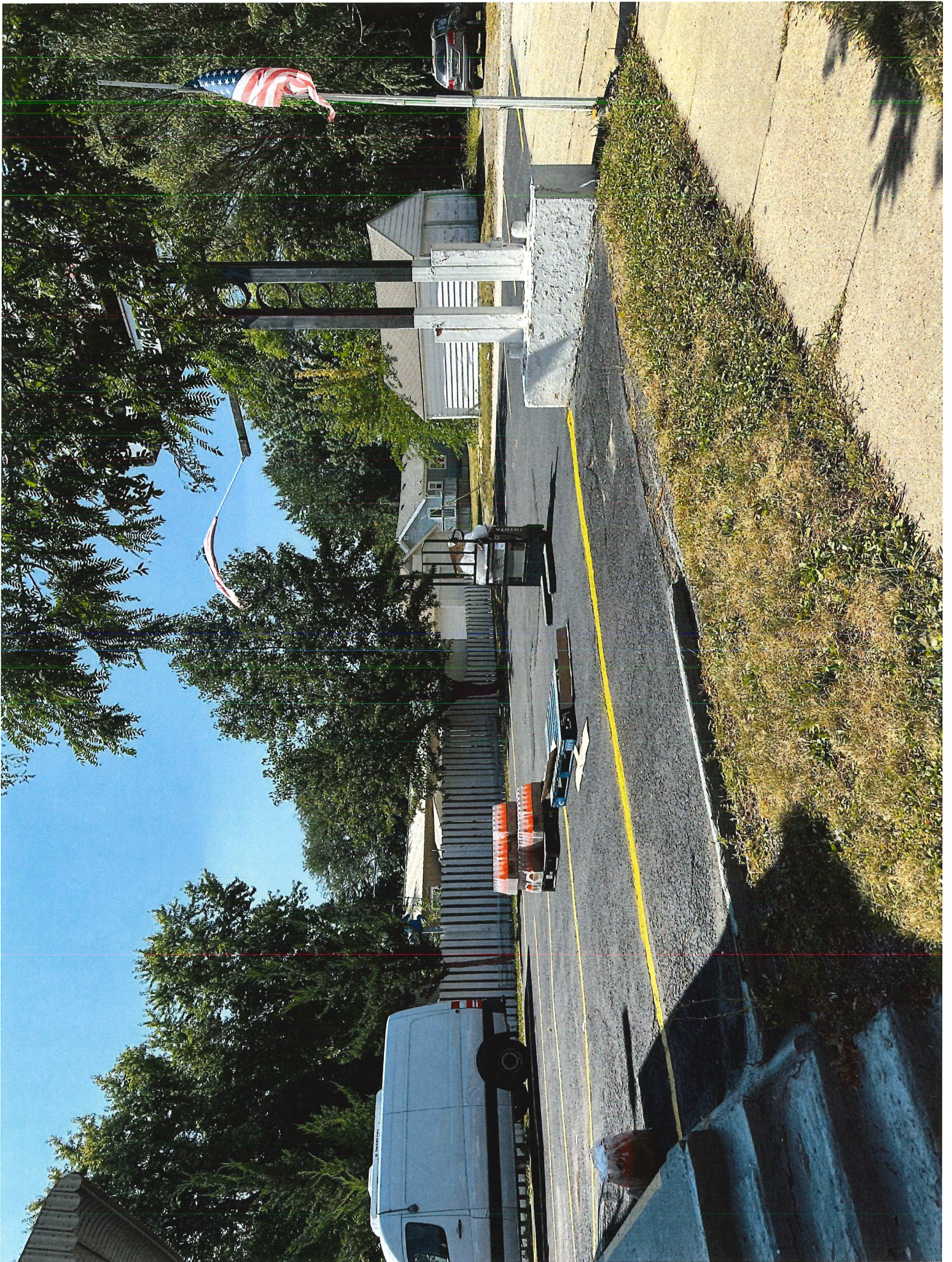
1 inch = 73 feet

Gerardo Pirez 415 E Euclid Ave
Das Mines IA 50313



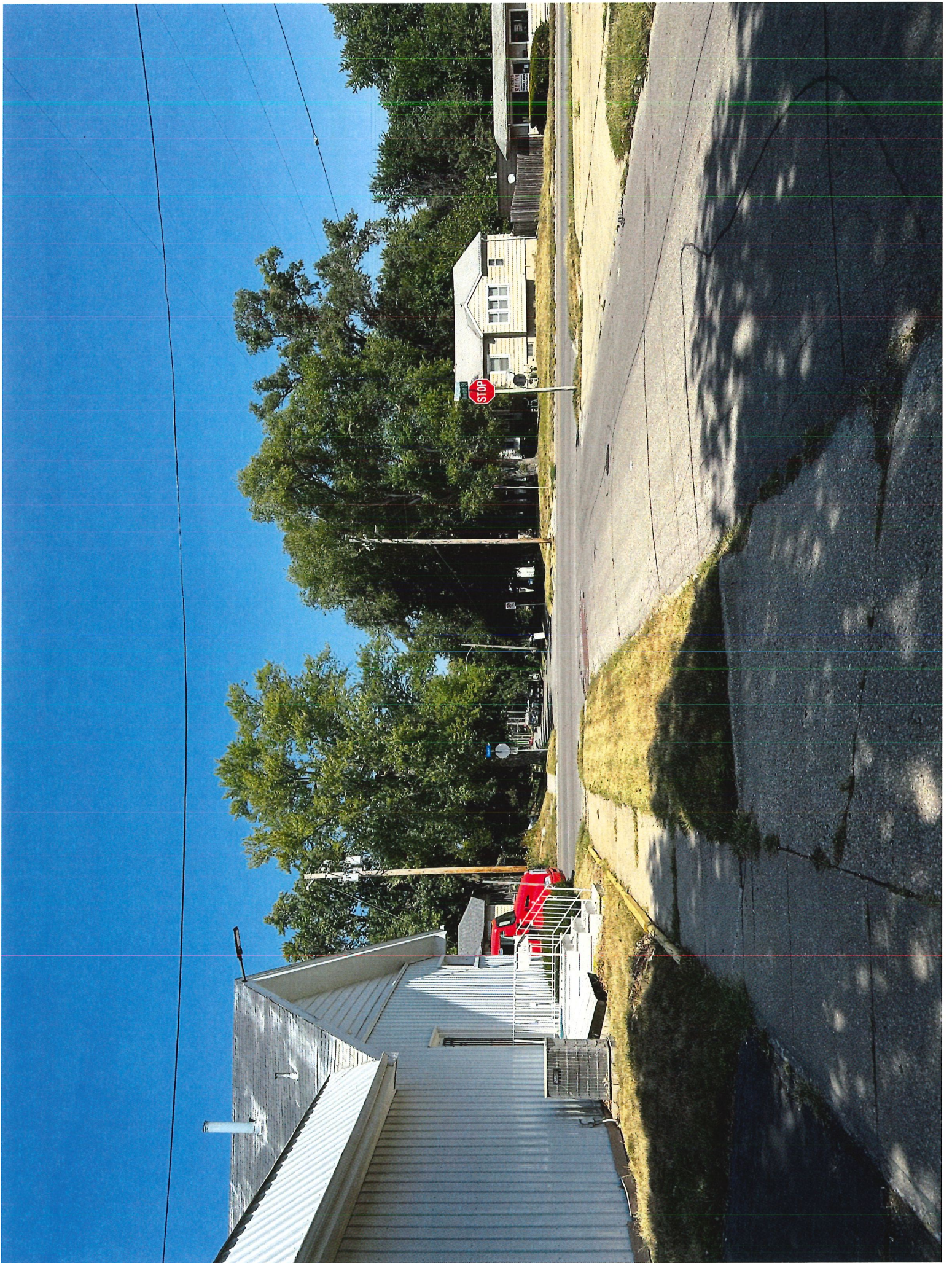
*F.T = Food TRAILER

A









Item: ZONG-2023-000044

Date: 08/30/2023 67

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: Lindsey Carter

Name/Business: Lindsey Carter

Impacted Address: 3523 Columbia St Des Moines IA, 50313

Comments: I think they will be a great addition to our community!

Item: ZONG-2023-000044

Date: 8/30/23

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: [Signature]

Name/Business: Endeavor Rentals, LLC

Impacted Address: 3011 Bowdoin DSM IA

Comments: _____

Item: ZONG-2023-000044

Date: 08/30/23

Please mark one of the following:

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

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPME.
 SEP 05 2023

Titleholder Signature: Laura Vaquez Santiago

Name/Business: _____

Impacted Address: 3611 Columbia Street, DSM IA 50313

Comments: _____

Item: ZONG-2023-000044

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: Nicole Spina

Name/Business: Angina Property LLC / The Insurance Specialist II

Impacted Address: 514 E. Euclid Ave DSM

Comments: _____

Item: ZONG-2023-000044

Date: 8-50-23

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: Charles Nairn

Name/Business: _____

Impacted Address: 3615 Columbia

Comments: _____

Item: ZONG-2023-000044

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: _____

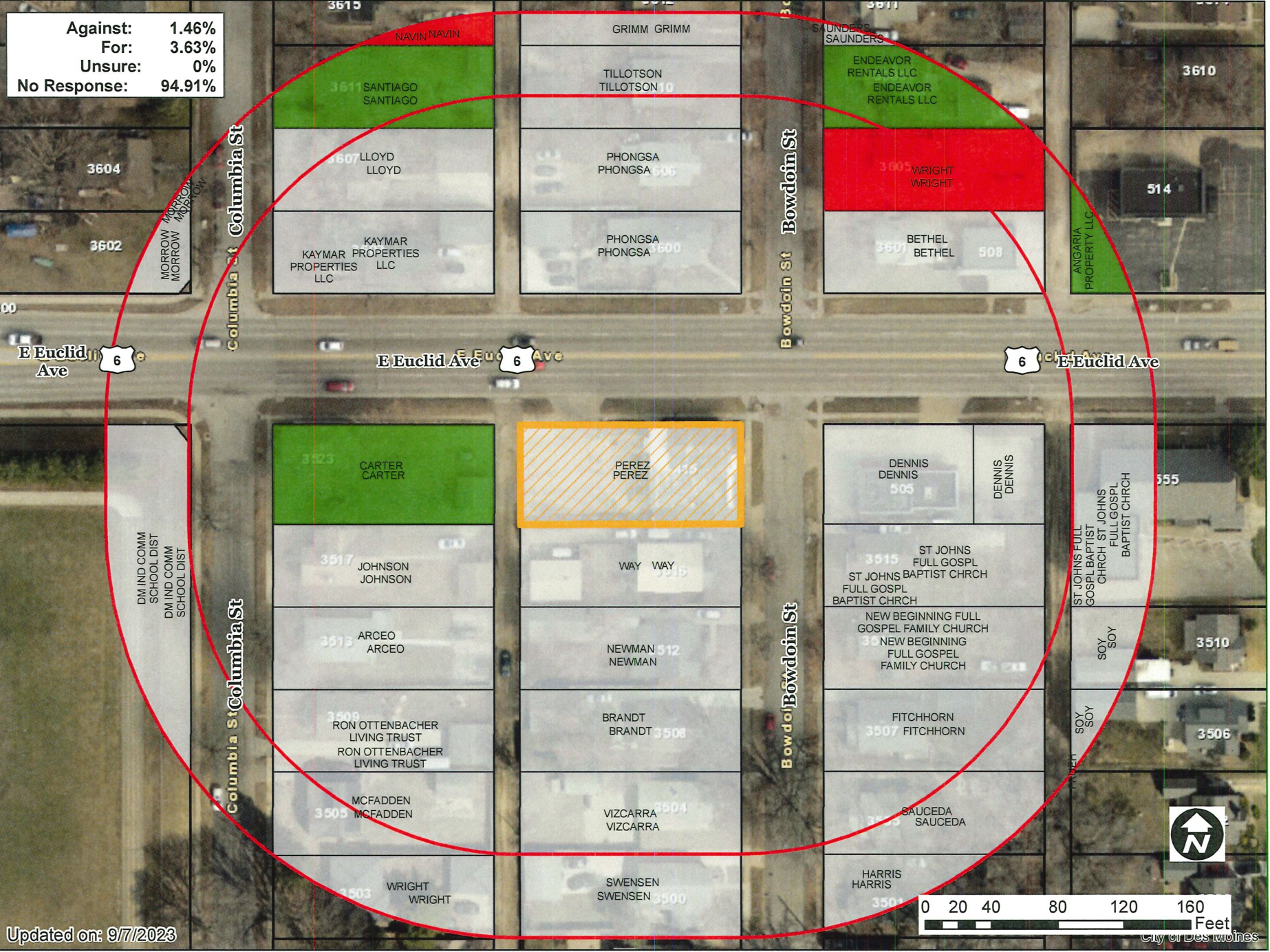
Name/Business: Mark Wright

Impacted Address: 3503 Columbia St., 50313

Comments: Our driveway is in the alley and our concern - since it doesn't get graded or residents up keep weeds to prevent vehicle scratching - that this will block the better entrance to park in our driveway.

Gerardo Perez, 415 East Euclid Avenue

ZONG-2023-000044



1 inch = 77 feet

Gerardo Perez, 415 East Euclid Avenue

ZONG-2023-000044



1 inch = 73 feet