



Rezoning Petition

Property Owner & Applicant:

Tony Schmalz (Property Owner) APS DM, LLC.

Applicant's Representative:

Doug Saltsgaver with Engineering Resource Group, Inc.

Request:

Comprehensive Plan and Zoning Map Amendment

Legal Description:

Lot 27 Capitol Height Replat located within the NW ¼ SE ¼ of Section 21 in Delaware Township.

General Location:

Located approximately 70-feet southeast of the NE 43rd Court and East Aurora Avenue intersection, being adjacent to the east of the corporate limits of the City of Des Moines. (*Attachment 'A'*).

Existing Future Land Use Map Classification:

Low Density Residential (*Attachment 'B'*)

Proposed Future Land Use Map Classification:

Light Industrial

Existing Zoning:

"LDR" Low Density Residential District (*Attachment 'C'*)

Proposed Zoning:

"LI" Light Industrial District

Surrounding Zoning:

North - "LDR" Low Density Residential District

East – "LDR" Low Density Residential District

South – "LDR" Low Density Residential District

West – City of Des Moines Corporate Boundary split zoned R1-80 One Family Residential District and C-2 General Retail and Highway Oriented Commercial District

GENERAL COMMENTS:

This item was scheduled for public hearing at the September 23, 2019 Zoning Commission meeting. The Petitioner asked for a deferment to the October 28th Zoning Commission meeting, which the Zoning

Commission granted. An updated notice was mailed to the property owners within 500 feet of the subject property, alerting them of the October 28th Zoning Commission meeting. The applicant is requesting a Comprehensive Plan Amendment and Zoning Map Amendment to change the Future Land Use Map classification from Low Density Residential to Light Industrial and to change the Zoning Map from “LDR” Low Density Residential District to “LI” Light Industrial District for the subject property at 4175 NE 43rd Court, Section 21 of Delaware Township. The subject property consists of one (1) tax parcel totaling approximately 2.37-acres. The subject property is located approximately 70 feet southeast of the NE 43rd Court and East Aurora Avenue intersection with approximately 295-feet of frontage on NE 43rd Court. The property has an existing warehouse use established in 1952 with a warehouse building constructed in approximately 1959 based on estimates from the Polk County Assessor’s webpage. The adjacent properties to the north, south and east are all developed as single-family residential properties and are zoned “LDR” Low Density Residential District. The property adjacent across the NE 43rd Court is a vacant parcel located within the City of Des Moines and the property directly south of this parcel is an existing Mobile Home Park zoned “LDR” Low Density Residential District.

The City limits of the City of Des Moines are located adjacent to the west across NE 43rd Court as well as approximately 120-feet to the north of the subject property. The City of Des Moines has been contacted regarding this rezoning proposal and have not responded with comments pertaining specifically to the rezoning. In review of their 2016 Plan Des Moines Land Use Map and Future Land Use Map, the subject property and surrounding neighborhood is not designated and indicates that there are no plans for annexation of this property or the surrounding properties. The City of Des Moines does have an approved Urban Renewal area located along the Highway 6 /Hubbell Avenue corridor.

The property as it exists today was created by Capitol Heights Replat, a subdivision plat recorded on November 10, 1925, within Book I, Page 189. The Polk County Assessor’s office indicates the warehousing use was established in 1952 and a warehouse building was constructed in approximately 1959 all pre-zoning. A Zoning Certificate was issued by the Board of Supervisors on April 20, 1960 to Highway Transport Co. for a shop building addition to an existing building for the repair of automobile transport trailers. A special provision in granting this permit indicated that no work should be done between 10:00 P.M. and 5:00 A.M. An approved site plan from July 19, 1990 is on file for the subject property identifying the existing buildings and proposed grading and parking lot addition proposed at the time of the site plan. The existing trucking and warehouse use and existing structures are considered legal non-conforming uses in the “LDR” Low Density Residential District. A new structure cannot be added to the property as it exists today. As long as the provisions of the Polk County Zoning Ordinance are followed the existing use and buildings may continue as legal nonconforming uses.

The applicant has submitted a written Rezoning request, *Attachment ‘D’*, which outlines their interest in constructing a 20,000-square foot single story warehouse building addition within the northern half of the property. The current non-conforming use operates as a warehouse for receiving, delivery and installation services of office furniture called T & M Services. The supporting documentation submitted with the request indicates that they are focused on growing their business through the Des Moines location and that their operation requires receiving, loading and unloading of semitrailers and straight trucks daily as well as ongoing long-term and short-term storage and warehousing of freight and product. The existing 8,300-square foot building is considered deficient to the safe and efficient operation of the business according to the applicant. Items outlined in the supporting documentation for the request highlight that the proposed building addition would solve their deficiencies due to the current site not having a truck height loading dock, insufficient warehouse space for the current operation and future growth potential, insufficient warehouse layout and overall necessary for the continued operation and growth of the business. The applicant has submitted a concept plan of the

proposed development of the property, *Attachments 'E'*, which shows the location of the new addition on the northern portion of the property.

Development of the subject property as proposed will require a Major Site Plan process for the proposed building addition. The Major Site Plan is an administrative process in which access, stormwater, utilities, parking, building placement and landscaping are reviewed.

ZONING BACKGROUND:

Throughout the history of zoning in Polk County, the subject property has been located within residential designated zoning districts. In 1961, 1973, 1990 and most recently in 2007 updates to the zoning map identified the subject property and adjacent neighborhood with the R-2 One and Two Family Residential District, Suburban District and Low Density Residential District. The most recent change in the zoning of the property was in response to the vision and goals identified in the Polk 2030, Polk County Comprehensive Plan. All of these zoning district designations allowed residential uses only. The following is a chronological history of the zoning districts designated to the subject property since the beginning of zoning in Polk County:

1961 – The subject property was zoned as R-2 One and Two Family Residential.

1973 – The subject property continued to be zoned as R-2 One and Two Family Residential.

1990 – The subject property was zoned to Suburban District.

2007 – The subject property was zoned to Low Density Residential District.

STAFF REVIEW:

Natural Resources

Mature woodlands are located along the perimeter of the property providing a buffer between the subject property and the adjacent parcels. The topography across the property varies with an elevation of 940 feet in the southwest corner and a low point of 920 feet in the northeast corner. The subject property is not located within the mapped floodplain.

Roads/Utilities

The subject property is located directly east of NE 43rd Court and south approximately 70-feet southeast of the NE 43rd Court and East Aurora Avenue intersection. East Aurora Avenue and NE 43rd Court are both paved and designated as local streets maintained by Polk County. It is likely that the proposed building addition and growth of the business at this location will include an increase in heavy trucks utilizing the current NE 43rd Court roadway. The property has two (2) existing accesses to NE 43rd Court.

The property appears to be currently served by a 1,000 gallon onsite wastewater system with laterals located adjacent to the northern lot line at a setback of approximately eight (8) feet. The only records on file indicate that this system was permitted in 1959. The City of Des Moines provided information regarding the subject property to confirm that it is located within the Northeast Four Mile Trunk Sanitary Sewer Connection Fee Benefited District. The closest City of Des Moines owned gravity sanitary sewer to the subject property is an existing eight (8) inch sanitary sewer running northeast/southwest is located in the southeast parking of Hubbell Avenue and approximately 500-feet west of the parcel's west property line. The invert of this eight (8) inch sanitary sewer is approximately 142.5 City Datum. The ground surface elevation of this parcel ranges from approximately 143 to 167 City Datum.

Therefore, the existing eight (8) inch sanitary sewer appears to have adequate depth to provide first floor sanitary sewer service and possibly basement sanitary sewer service. The City of Des Moines currently has no plans to construct a sanitary sewer in NE 43rd Court adjacent to this property. The property is located outside the corporate City Limits of Des Moines and if connected to the Des Moines Sanitary Sewer System without being annexed into the City, this property would be responsible for paying double the standard City of Des Moines Sewer Rates.

Des Moines Water Works provides water service in this area with a 4-inch distribution line on the east side of NE 43rd Court.

Public Testimony

On October 23, 2019, County staff have received eight (8) items of public testimony in writing. Two (2) items of testimony are in opposition and six (6) are in favor of the rezoning. The items of testimony in opposition reference incompatibility with the residential uses adjacent, additional loads and traffic on undersized roads and increased noise in this area. Testimony in favor of the rezoning did not provide additional details. The items of testimony are attached as *Attachment 'F'*.

Comprehensive Plan Discussion

The subject property is located within the South East Area, as identified in the Polk County 2030 Comprehensive Plan. The adjacent properties to the north east and south are all located within the Low Density Residential Classification and the property adjacent across NE 43rd Court to the West is located within the Corporate Limits of the City of Des Moines.

Key issues identified during the development of the Plan for the South East Area relate to concern about the pace of growth and urban expansion, with recognition of landowners' expectations of development under existing zoning. It also identifies an interest in fostering economic growth and living-wage jobs within the area, with a particular focus on sustainable economic development.

Applicable general goals and policies of the Comprehensive Plan:

Quality of Life Goal – Policy 2: Respect for Property Owners – Respecting the decisions of individual landowners must be a component of setting land use policies and regulation. Polk County will respect the individual decisions and values of private property owners in setting and administering land use policy and regulation, and will mitigate impacts to property owners' quality of life when community and private property interests conflict.

Character of Development Goal - Policy 2: Coordinated Growth Patterns – Staged development and orderly extensions of street and utility infrastructure is necessary to protect neighborhood, community, and landscape character. Polk County and local governments will work to align City and County land use plans and discourage sprawl, protect social/ economic/ natural resources, and encourage controlled, orderly growth of cities.

Planning Process and Implementation Goal – Policy 3: Zoning Consistency – Regulation is a critical tool to meeting County land use goals, and the County's preferred land use vision. Polk County will update its zoning and land development regulations to encourage an efficient development pattern, fostering compact villages and corridors linking distinct communities.

Economic Growth and Land Use Goal - Policy 4: Revitalization – Substantial growth can occur in existing developed areas through reinvestment and redevelopment. These efforts can improve utilization of existing public services and infrastructure and can provide for a diversity of quality housing and

businesses opportunities. Polk County will work to direct suitable public and private investment to unincorporated areas and core cities of the metropolitan region in need of reinvestment and redevelopment.

The Comprehensive Plan may be amended from time to time if it can be demonstrated that a real and immediate need exists based upon changing circumstances.

Comprehensive Plan Analysis

The subject property has historically been designated as a residential zoned property. This area of unincorporated Polk County has been in existence since 1925 and has limited infrastructure, limiting the ability to develop properties for heavier uses such as operations that rely on trucks for deliveries. Sanitary sewer availability is limited, and would require connection to the City of Des Moines gravity sanitary sewer located 500-feet away at its closest point and crossing private property. This would require collaboration with the City of Des Moines and annexation discussions. All of the adjacent properties are developed residential lots and future plans indicate these properties should remain residential. Further, the growth of this business in its current location will increase trucking traffic within this residential neighborhood in which improvements are not planned. The streets are not built to modern standards risking safety as well as future maintenance issues from heavy trucks utilizing the street.

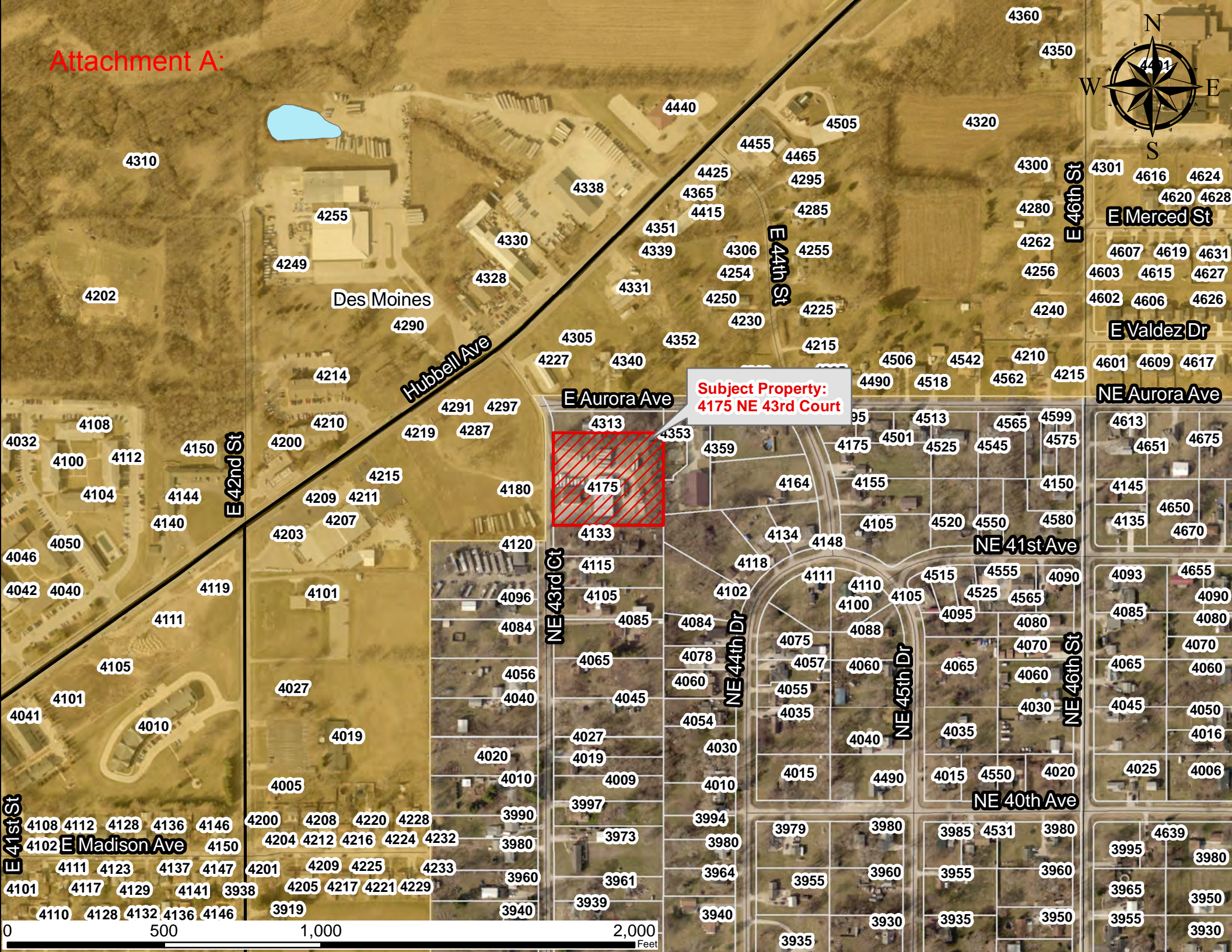
RECOMMENDATION:

Staff recommends denial of the 2030 Polk County Comprehensive Plan Map Amendment from the Low Density Residential Classification to the Light Industrial Classification and recommends denial of the Zoning Map Amendment from the "LDR" Low Density Residential District to the "LI" Light Industrial District for the subject property.

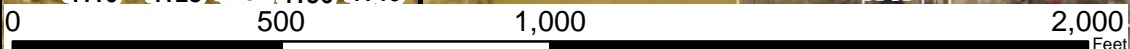
The recommendation for denial of the Comprehensive Plan Amendment is based upon the fact that the request is not in harmony with the spirit, intent, goals and policies of the Polk County 2030 Comprehensive Plan. The recommendation for denial of the Rezoning Map Amendment is based upon the following: a) The request is not in accordance with the Comprehensive Plan; b) Approval does not support the public, health, safety and welfare of County residents due to the proposals incompatibility with adjacent land uses and the overall character and nature of the surrounding area; and c) The rezoning area has been residential throughout the property's history, adjacent properties are residentially zoned in the same vicinity and have historically been developed with residences.

The consistent Comprehensive Plan classification and Zoning designation as residential throughout the property's history, limited development ability due to the limited infrastructure and the inability of the sanitary sewer system to serve the neighborhood does not warrant a change in the property's current residential classification on the Future Land Use Map, nor does it warrant the proposed Zoning Map Amendment.

Attachment A:



Subject Property:
4175 NE 43rd Court





City of Des Moines

Hubbell Ave

E 44th St

E 42nd St

4175 NE 43rd Ct.

E Aurora Ave

E Valde

NE Auro

NE 43rd Ct

Low Density Residential

NE 41st Ave

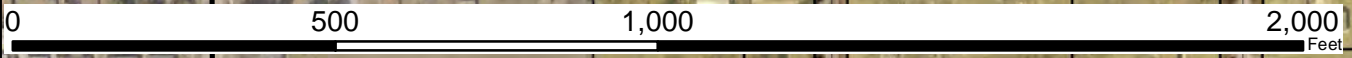
NE 44th Dr

NE 45th Dr

NE 46th St

NE 40th Ave

h Ave





City of Des Moines

4175 NE 43rd Ct.



Low Density Residential

E 42nd St

Hubbell Ave

E Aurora Ave

E 44th St

NE 43rd Ct

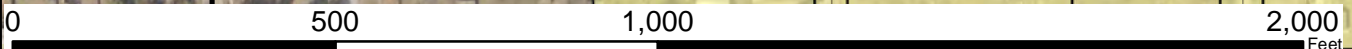
NE 44th Dr

NE 45th Dr

NE 41st Ave

NE 46th St

NE 40th Ave



Attachment D:



T&M Services, Inc
4175 NE 43rd Court
Des Moines, IA 50317

August 26, 2019

Polk County Planning & Development
5885 NE 14th Street
Des Moines, IA 50313

RE: New Building / Zoning Request

To whom it may concern:

T&M Services is requesting a zoning change of our property to allow the construction of a new 20,000 SF warehouse building. I am writing to explain why we feel this new building is necessary for the continued operation of our business at our current location.

I recently purchased the business operations of T&M Services on July 1, 2016. T&M Services provides receiving, delivery and installation services of office furniture. Since the purchase, we have been focused on growing the business through our Des Moines location. This focus has led to increased revenue, increased employment and increased operational activity. Our operation requires receiving, loading and unloading of semitrailers and straight trucks daily as well as ongoing long-term and short-term storage and warehousing of freight and product. Over the past few years since the acquisition, it has become apparent that our current 8,300 SF building is deficient to the safe and efficient operation of our business. Below are our current deficiencies, the issues these cause and how a new building will solve these deficiencies:

No Truck Height Loading Dock:

Our current building lacks a truck height loading dock. It only has overhead doors for access. This requires all freight to be unloaded off the tailgate of semitrailers to ground level by forklift and manpower. This process takes much longer, requires more labor and is less safe than a truck height loading dock. The constant need to climb up into and down out of the semitrailers increases the exposure to slips and falls as well as freight tipping and falling while being unloaded. This activity also must occur outside the building so exposure to the elements - snow, ice, rain, wind - increases these risks and inefficiencies exponentially. A new building with truck height loading docks would immediately remove these issues and allow us to operate more efficiently and safe.

Insufficient Warehousing Space:

Our current building lacks sufficient space for our operation and inhibits future growth potential. Our 8,300 SF warehouse is currently operating at full capacity and/or over capacity. We try to alleviate this issue using storage trailers and parking them on our site. We currently use 6-10 storage trailers on a

consistent basis and are at capacity of trailers we can fit on our site. Storage trailers are much less efficient, require increased manpower to load/unload and causes increased exposure to heat and cold to the freight being stored in these trailers. These trailers are also less secure and more prone to theft and vandalism. These issues have caused us to lose or decline business opportunities when the customer learns their freight may not be able to be kept in a secure building or the requirement of warehousing in a permanent building. A new 20,000 SF building will give us sufficient space to eliminate the need for storage trailers and allow us space to grow.

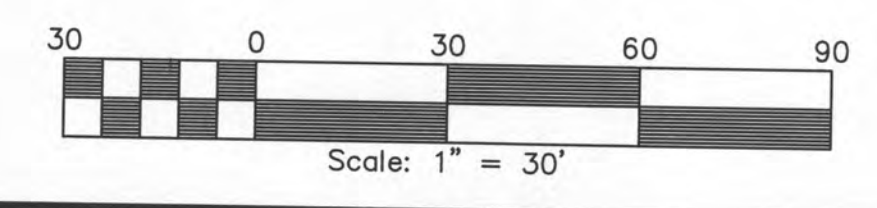
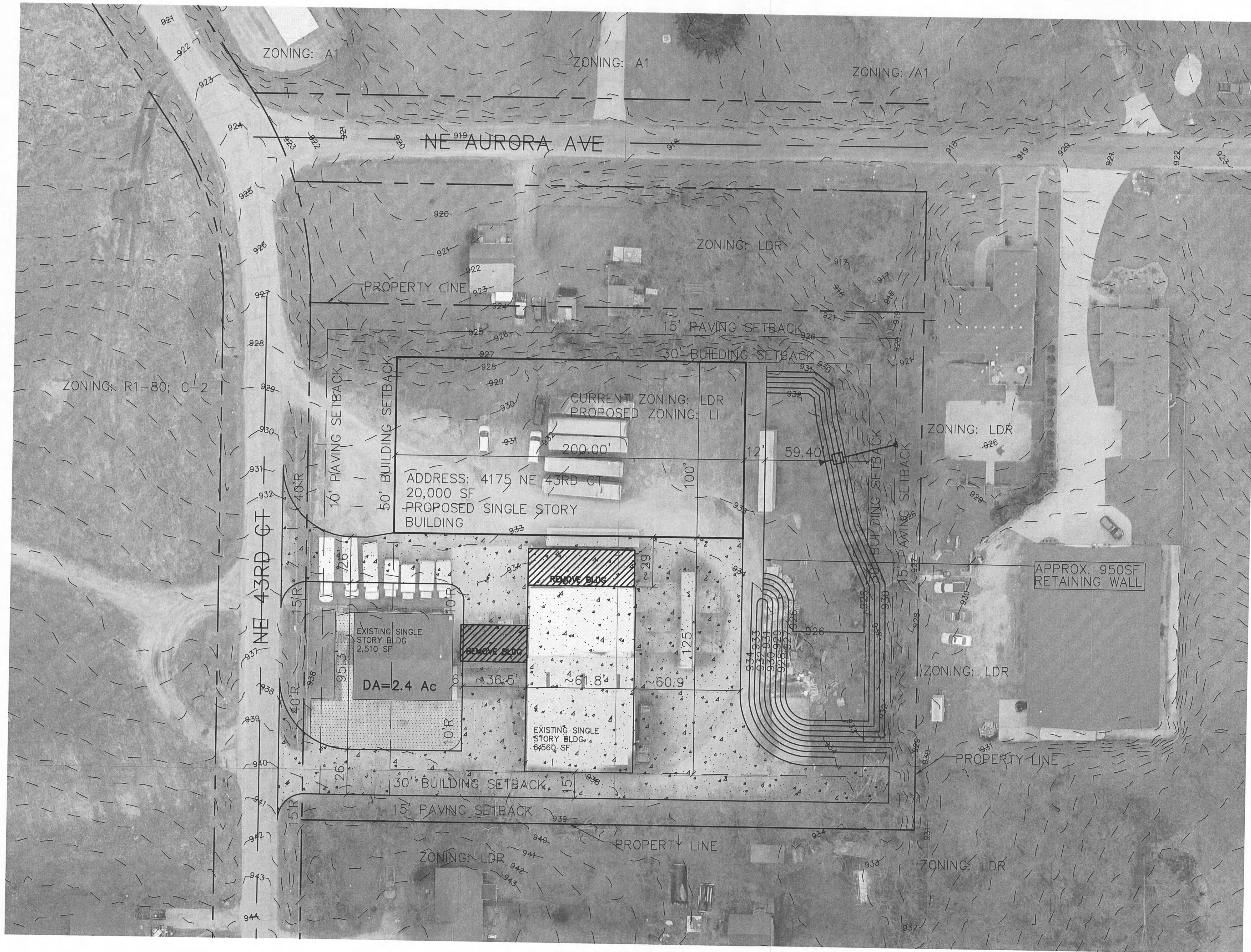
Inefficient Warehouse Layout:

Our current warehouse layout is inefficient and lacks suitable ceiling heights to allow for maximum use and efficiency. The warehouse is divided into 5 separate sections with different floor elevations which are separated by small single door openings with stairs or ramps. This layout does not allow for freight to be easily moved between sections. This often requires any freight to be moved within sections to be moved outside and around the building. This causes increased manpower and outside exposure which increases damage and safety risk. The separate sections also lend to smaller storage areas which are far less efficient than an open warehouse. In addition, ceiling heights vary from 8 ft to 20 ft which minimizes the ability to use commercial racking to increase and maximize storage space. All these building layout inefficiencies require increased manpower, operating costs and inhibit growth. A new building with 32 ft ceiling clearance and an open layout will be more time effective, cost efficient and safe.

In conclusion, we strongly feel a new building is necessary for the continued operation and growth of our business in an increasing competitive environment. Therefore, we are requesting a zoning change to allow for the construction of this building. I appreciate your consideration and please let me know if I can answer any questions or provide any further assistance.

Sincerely,

Tony Schmalz
President / Owner
T&M Services
515-306-1984
tonys@tmservices.net



FIRG
 Engineering Resources Group, Inc.
 Engineers and Surveyors
 2413 GRAND AVENUE
 DES MOINES, IOWA 50312
 (515) 286-4823

4175 NE 43RD CT. CONCEPT 4A

NO.	REVISION	DATE	BY	FOR

DESIGNED BY: DDC	DRAWN BY: DDC
CHECKED BY: DJS	DATE: 08/27/2019
SHEET 1	OF 1
FIELD BOOK:	FILE NO.: P19-034-CP4A

Attachment F:

Jennifer Ellison

Phone call received from Cynthia Gatch, 3865 NE 44th Drive, responding to the rezoning in opposition. She stated that this neighborhood, "Always has been a residential area".

She also owns other properties in the neighborhood including property at 4195 NE 44th Drive and 770 NE 39th Avenue.



Jennifer Ellison || Public Works
Planner || jennifer.ellison@polkcountyiowa.gov
5885 NE 14th Street || Des Moines, IA 50313 || USA
☎: 515-286-2280
polkcountyiowa.gov

cut and return

Case #2019-08330, T & M Services Rezoning. Please provide your name and address. If the property does not have an address, please provide a parcel # or identify your property by placing an "X" on the enclosed map and return the map along with this portion.

As the owner of the property, I hereby state my:

support for

opposition to

Print Name: Randall M. Robasse

Address: 4225 E. 44 Street, Des Moines, IA 50317

Signature: RM Robasse

Aerial/Vicinity Map

5555 NE 88th Street, Altoona



If you wish to be shown approving or disapproving of the Conditional Use Permit and/or Variance Appeal email Jennifer Ellison at Jennifer.Ellison@polkcountyiowa.gov or call him at (515) 286-2280 or complete the information below and mail to Polk County Public Works Department, Planning & Development Division, 5885 NE 14th Street, Des Moines, IA 50313 at least 4 days prior to the meeting date.

----- cut and return -----

Case #2019-08170 / #2019-08171, Childs. Please provide your name and address. If the property does not have an address please provide a parcel # or identify your property by placing an "X" on the enclosed map and return the map along with this portion. As the owner of the property, I hereby state my:

support for

opposition to

Print Name: Cynthia Phelps - William Phelps

Address: 5455 NE 88 ST

Signature: Cynthia Phelps - William Phelps

Jennifer Ellison

From: Sean and Susan Kelly <kellycbf@hotmail.com>
Sent: Thursday, October 10, 2019 6:30 PM
To: Jennifer Ellison
Subject: Re: 4175 ne 43rd ct

Follow Up Flag: Follow up
Flag Status: Flagged

Our family went to the open house at this business tonight and while I still have concerns, it seems the nearest neighbors are for the rezoning of the property. I also found out that this property, running as a commercial business, existed before the zoning codes went into affect. Because of these two reasons, I am no longer opposed to the rezoning of the property listed in this e-mail chain, but I hope that the concern I have expressed will be satisfied by the company to the zoning board.

Thank you for your time,

Susan Kelly
4102 NE 44th Dr.
Des Moines IA 50317

Sean and Susan Kelly

kellycbf@hotmail.com

From: Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov>
Sent: Thursday, September 12, 2019 2:47 PM
To: Sean and Susan Kelly <kellycbf@hotmail.com>
Subject: RE: 4175 ne 43rd ct

Good Afternoon,

Thank you for your inquiry. The rezoning request that has been submitted and is currently under review is only for the property at 4175 NE 43rd Court. The applicant has indicated in their request that they are requesting a rezoning to construct a new warehouse building. The existing site would not be able to be modified as it exists today because it is considered non-conforming within the current zoning district. The application does indicate that they are requesting a zoning change to allow for the construction of the building and feel that it is necessary for the continued operation and growth of their business. The rezoning notice was sent to the City of Des Moines staff members for their notification. The City of Des Moines staff members would need to be contacted regarding any potential or future annexation into the city limits. Please let me know if there are any additional questions that I can answer. We are currently reviewing the rezoning request and will be considering the items that you have brought forth in your e-mail. Please confirm if you would like to respond in opposition of this request.

Best Regards,



Jennifer Ellison || Public Works
Planner || jennifer.ellison@polkcountyiowa.gov
5885 NE 14th Street || Des Moines, IA 50313 || USA
O: 515-286-2280
polkcountyiowa.gov

From: Sean and Susan Kelly <kellycbf@hotmail.com>
Sent: Tuesday, September 10, 2019 12:36 PM
To: Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov>
Subject: 4175 ne 43rd ct

Yesterday we received a notice to rezone that property. I am writing to express my concern and ask a few questions. If you cannot answer my questions, please direct me to someone who might be able to answer them.

Will rezoning this property make it easier for other properties to be rezoned? Right now this is the only business in this nice, very quiet (except for their truck noises) neighborhood. I am not interested in seeing other residential properties being converted to businesses, industrial or otherwise. This is truly a residential neighborhood.

Will rezoning increase the truck and other business traffic? If so, I am absolutely opposed to the rezoning. The roads in this area are not designed for truck traffic or even business traffic. I am not sure how the property was able to be used as a business in the first place because it is presently the only business that I am aware of in the neighborhood. It would be better for them to buy the lot in the corner of Hubbel and 43rd ct and build on that site. That way the infrastructure can be built to satisfy the traffic needs.

Will the rezoning increase the chance that the Capitol Heights area will be annexed to the city of Des Moines? Again, if so, I am absolutely opposed.

I fear a new zoning and a new large warehouse will decrease my property value that almost butts up to the property in question and increase noise throughout the day. I fear it will also increase traffic and cause overuse of roads that are not equipped to handle that type of load. Increased truck and vehicle traffic will decrease the safety of the area, especially to bike riders and dog walkers who like to use these roads for safe entertainment.

Thank you,

Susan Kelly
4102 NE 44th Dr.
Des Moines, IA 50317

515.330.2624

Sean and Susan Kelly



Virus-free. www.avast.com

Jennifer Ellison

From: Patrick Schoolen <patrick@flatlandfuel.com>
Sent: Tuesday, October 15, 2019 11:27 AM
To: Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov>
Subject: Re: case#2019-08330

Hi Jennifer,

In regards to my email from 9/18 opposing this proposed rezoning, I would like to withdraw my opposition and instead support the rezoning. We had a good meeting with the owner of the property and business as well as with the site planners. As long as they do what they say they are going to do, the changes to the property will be a good thing for all and actually correct some issues I have with them. So please remove my original email from the file and instead file this as my support.

Jennifer Ellison

Received a phone call from Marvin Cole, 4105 NE 43rd Court, regarding the rezoning request for T & M Services and he has indicated that he is responding in support of the request.



Jennifer Ellison || Public Works
Planner || jennifer.ellison@polkcountyiowa.gov
5885 NE 14th Street || Des Moines, IA 50313 || USA
O: 515-286-2280
polkcountyiowa.gov

Jennifer Ellison

Subject: FW: I am addressing the matter of rezoning the property at 4175 N.E. 43rd court. My name is Janet Bulman and I live at 4118 NE 44th Drive. I want to go on record as approving the rezoning of the carproperty at 4175 NE 43rd Court. My phone number is 515

From: jbrncos43 <jbrncos43@gmail.com>

Sent: Friday, October 11, 2019 3:42 PM

To: Jennifer Ellison <Jennifer.Ellison@polkcountyiowa.gov>

Subject: I am addressing the matter of rezoning the property at 4175 N.E. 43rd court. My name is Janet Bulman and I live at 4118 NE 44th Drive. I want to go on record as approving the rezoning of the carproperty at 4175 NE 43rd Court. My phone number is 5152...

Sent from my Galaxy Tab A