

Docket Number: 22/11282

Applicant/

Property Owner: Kristopher Stapes
4815 NE 3rd Street
Des Moines, IA 50313

Representative: Scot Bokhoven

Pro Line Buildings
1385 HWY 63
P.O. Box 9
New Sharon, IA 50207

Request: The applicant is requesting a Conditional Use Permit to allow the Light Industry Use of a Lawn and Garden Services Contractor (NAICS Code 561730), and the Moderate Industry Use of a Concrete Construction Contractor shop (NAICS Code 238910) at the properties addressed as 4815 and 4825 NE 3rd Street, Des Moines, IA 50313.

Subject Property / Surrounding Land Uses:

The subject properties are located approximately 122-feet south of the intersection of NE 3rd Street and NE 48th Place, and 350-feet south of Interstate 80/35. The subject properties are currently two lots of record, which combined are legally described as the North 122 Feet of the South 184 Feet of the West 64 Feet of Lot 13, and the North 122 Feet of the South 184 Feet of Lot 14, Freehold, and are located within Section 14, Township 79 North, Range 24 West of the 5th P.M. (Saylor Township). The subject property is approximately 23,424 square feet (0.54 acres) in area and currently contains a single-family dwelling and outdoor storage of light and medium duty road vehicles, trailers, and equipment consistent with landscaping and concrete businesses, as well as a shipping container used for storage.

The subject properties are zoned “MU” Mixed Use District, as are all surrounding properties. The corporate limits of the City of Des Moines are approximately 1,100-feet east of the subject properties. See *Attachment ‘A’* for a vicinity map of the subject property and surrounding area.

Application

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 2, Table 4.1, Table of Uses* permits Light and Moderate Industry uses within the “MU” Mixed Use District upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment. The applicants are proposing to construct a 40’x80’ (3,200 square feet) metal storage building to house the equipment for a lawn and garden maintenance business, a snow removal business, and a concrete construction business. The uses of lawn and garden maintenance and snow removal are considered a Light Industry use (NAICS Code 561730), and the concrete construction business is considered a Moderate Industry use (NAICS Code 238910). See *Attachment ‘B’* at the end of this report for a copy of the application that includes a written description of the proposed uses.

If this Conditional Use Permit application is approved, the applicants are required to complete a Major Site Plan for review and approval of all site improvements, and a Building Permit Application for the construction of the new building. The applicant will be required to adhere to

all applicable Building Codes, Site Development Codes, and Stormwater Codes. Review and approval of the Major Site Plan by the Polk County Public Works Department is required prior to the start of any site work. Review of the construction plans and issuance of a Building Permit is also required from Polk County Public Works prior to construction.

Public Testimony

Staff mailed out 37 notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 500-foot notification boundary. To-date staff has received two (2) petitions in support of the proposal, and three (3) petitions in opposition of the proposal. Additionally, an adjacent property owner offered support of the proposal with the conditions that trees on the east side of the property be removed, and that stormwater runoff concerns be addressed.

Natural Resources / Environmental

The subject property is not located within a mapped floodplain, nor does it contain other mapped environmental hazards or features. The site is mostly flat, with an elevation change of less than four (4) feet from the highpoint at the western property line to the lowpoint at the eastern property line. In a preliminary site drawing, a stormwater detention area is proposed in the southeastern portion of the site, though specific size and location of the detention area would be determined during the Major Site Plan analysis and review.

Roads / Utilities / Access

The subject property accesses NE 3rd Street via an existing driveway south of the residential dwelling addressed as 4815 NE 3rd Street, and a second entrance on the north side of the lot addressed as 4825 NE 3rd Street. Currently, the south entrance is concrete, and the north entrance is gravel. Entrances, including design and surfacing requirements, will be reviewed by Polk County as part of the Major Site Plan process. Water and sanitary sewer are available within NE 3rd Street right-of-way. Polk County has sanitary sewer main on the East side of NE 3rd Street, and Des Moines Water Works has a four-inch water main on the west side of NE 3rd Street. The new building will be required to connect to the sanitary sewer main and public water as part of required improvements.

Analysis

The Board of Adjustment in reviewing an application for a Conditional Use permit shall consider the proposal in terms of the following:

- 1. Existing zoning and land use in the vicinity of the uses.**

The subject property is zoned “MU” Mixed Use District, as are all surrounding properties. The surrounding area features residential and commercial/industrial use types, all of which are permitted in the Mixed Use district by right or by conditional approval. The proposed use a contractor shop is generally consistent with surrounding properties.
- 2. Planned and proposed public and private development, which may be adversely affected by the proposed use.**

There are currently no major public or private developments planned in the area.

3. **Whether and to what extent the proposed use, at the particular location for which it is suggested, is necessary or desirable to provide a development which is in the interest of the public convenience or which will contribute to the general welfare of the area or Polk County.**

The proposed use of a contractor storage building would fit the general character of the larger mixed use area. Many of the residences in the vicinity are adjacent to commercial or industrial uses which have been established over time.

4. **Whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety and welfare in general.**

There will be no outside storage permitted on the subject property, with all portions of the business being conducted entirely within the existing building. The applicant will be required to comply with all building and site development codes, and will be required to obtain all required permits prior to the commencement of any site work. The issuance of the conditional use permit would allow for the construction of a building to store all equipment associated with the applicant's businesses, would provide paved parking surfaces for the applicant's vehicles, and would require the removal of illegal storage containers, therefore improving the overall appearance of the site.

Findings

The application shall be denied if the Board of Adjustment finds any of the following:

- a. **The application and record fail to establish compliance with the standard made applicable to the proposed development by the provision of this Ordinance.**

The proposed uses fit within the categories of Light and Moderate Industry Uses as defined within the Zoning Ordinance, and may be permitted upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment, subject to any conditions of approval.

- b. **The proposed use, developed in the proposed manner, and at the proposed location, would be inconsistent with the standards pursuant to the provisions of this Ordinance.**

The applicants have proposed Light and Moderate Industry uses that are considered Conditional Uses in the "MU" Mixed Use District. Development would be required to adhere to all site development standards set forth in the Zoning Ordinance.

- c. **The adverse impacts on the overall public health, safety and welfare are not balanced by the public or private benefits of the proposal. The Board of Adjustment shall include in this balance, any proposals of the applicant and any conditions that it might impose on the development, pursuant to the provisions of this Ordinance, to ameliorate problems associated with the development.**

New development also presents an opportunity for all codes and requirements to be met to the fullest extent possible. In particular, the restrictions on outdoor storage as well as the bufferyard and stormwater requirements under the Ordinance will help to balance the impact upon surrounding properties.

In addition, no application for a Conditional Use Permit shall be approved unless the Board of Adjustment specifically finds the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

A. The proposed use is not in harmony with the general purpose, goals, objectives, and standards of the following:

- 1. Polk County Comprehensive Plan:** The proposal is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan. The subject property is located within the North Central Area Plan, which features the most urbanized areas of unincorporated Polk County. The subject property and surrounding properties are classified on the Future Land Use Map as Mixed Use. The proposed use is consistent with North Central Area Goals of growing the tax base through economic development, agricultural land protection by not furthering sprawl through new development, and development in existing commercial and mixed use areas.
- 2. Polk County Zoning Ordinance:** The Zoning Ordinance allows the proposed uses pending approval of this Conditional Use Permit by the Board of Adjustment, and pending the approval of building permit and site plan review, issuance and inspections, as well as completion of all improvements and issuance of a certificate of occupancy by the Polk County Public Works Department.
- 3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** None.

B. The proposed location of the use is not consistent with policies or provisions of the following:

- 1. Comprehensive Plan:** The location of the proposed use is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.
- 2. Polk County Zoning Ordinance:** Light and Moderate Industry uses are allowed within the "MU" Mixed Use District, subject to approval of a Conditional Use Permit by the Board of Adjustment.
- 3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** The use will be required to comply with all Polk County Ordinances and Codes, including the Polk County Building Code, Air Quality Division, as well as Engineering and Planning. Major requirements would include construction plan review, site plan review, building permits, and building inspections.

C. **The proposed use at the proposed location results in a substantial or undue adverse effect on any of the following either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County or other governmental agency having jurisdiction to guide growth and development:**

1. **Adjacent property:** Property owners within 500 feet were notified of this request. Required site improvements may prove a benefit to the surrounding area, as it will required the installation of a stormwater detention area, as well as a building to store all equipment.
2. **Character of the neighborhood:** The proposed use will likely fit in with the character of the neighborhood, as it is a mix of residential, commercial and industrial properties.
3. **Traffic conditions:** Access to the site comes from NE 3rd Street, via an existing drive entrance and a proposed drive entrance, both of which are appropriate for a collector designated street.
4. **Parking:** The proposed use will be required to comply with all parking requirements. Parking compliance will be confirmed with the review of the Major Site Plan.
5. **Public improvements:** There are no known public improvements that will be impacted by the proposed use of the property.
6. **Public sites or rights-of-way:** No public site or projects are planned for the area in the near future.
7. **Other matters affecting the public health, safety, and general welfare:** None.

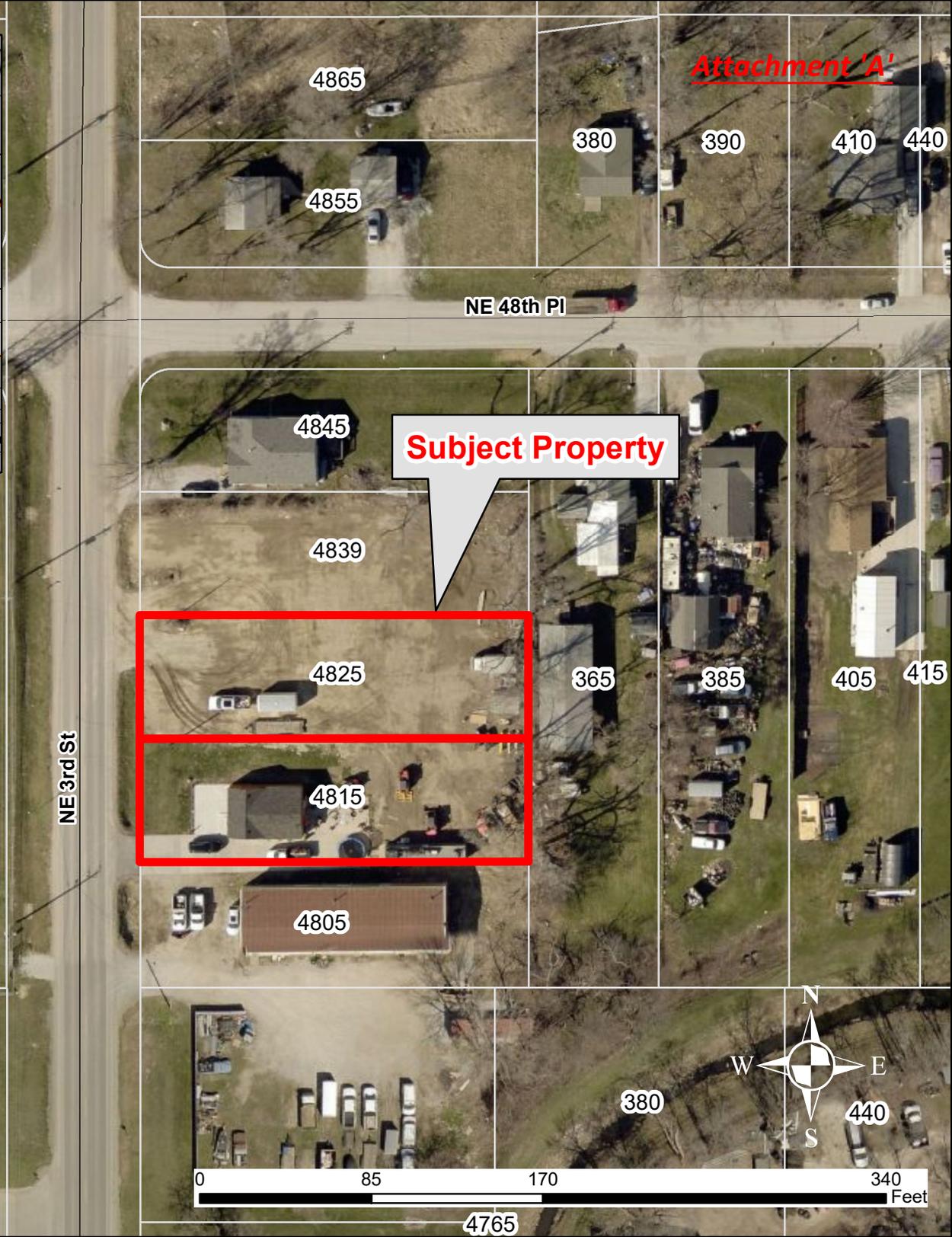
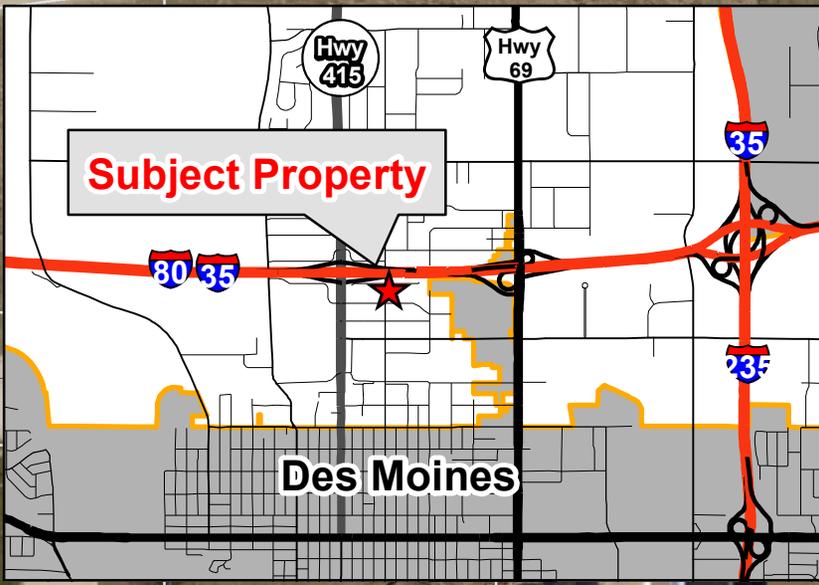
D. **The proposed use in the proposed area is not adequately served by or imposes an undue burden on any of the following.**

1. **Public improvements:** Adequate for proposed use.
2. **Public facilities:** Adequate for proposed use.
3. **Public utilities:** Adequate for proposed use.
4. **Public services:** Adequate for proposed use.

Recommendation

Staff recommends approval of the Conditional Use Permit to allow the Light Industry Use of a Lawn and Garden Services Contractor (NAICS Code 561730), and the Moderate Industry Use of a Concrete Construction Contractor shop (NAICS Code 238910) at the properties addressed as 4815 and 4825 NE 3rd Street, Des Moines, IA 50313, subject to the following conditions:

1. A Major Site Plan shall be completed by a licensed engineer and a complete application shall be submitted to the Polk County Public Works Department. Approval of said Major Site Plan shall be achieved prior to the commencement of any site work.
2. All outstanding zoning violations, including but not limited to the outdoor storage of construction equipment/materials, the use of a shipping container, and the storage of licensed vehicles and trailers on unpaved surfaces, shall be resolved through the required site plan improvements and proposed building. Enforcement of zoning violations will begin by March 31, 2023 with the absence of significant progress, as determined by Staff.
3. Approval of all applicable building permits.
4. No outdoor storage is allowed. Licensed vehicles and trailers parked in designated parking areas on paved surfaces are not considered outdoor storage.
5. This Conditional Use Permit is only valid for the property legally described above, for the Light Industry Uses for a Lawn and Garden Services Contractor (NAICS Code 561730), and Moderate Industry Uses for a Concrete Construction Contractor shop (NAICS Code 238910). Any change in use not permitted by right in the "MU" Mixed Use District will require the issuance of an additional Conditional Use Permit, or will not be permitted.



Attachment 'B'

Conditional Use Permit Application

Conditional Uses are those uses which may have a special impact or uniqueness demanding closer scrutiny and analysis to the site and the surrounding environment. When such a use is proposed, a review and report by Planning Division staff of the location, design, configuration, and impact will be conducted, comparing the proposed use to fixed standards and presented to the Board of Adjustment for action at a public hearing. Notices of the request are mailed to all property owners located within 500 feet of the subject property.



Please complete the entire application, submit with fee and review the standards on page 3.

To: **Polk County Board of Adjustment**

1. The undersigned Petitioners request that the Board consider this application for a Conditional Use Permit for the following use: (Describe briefly the nature of the use.)

Light Industry Use: Lawn and Garden Equipment and Snow Removal

Moderate Industry: Site Excavation and Concrete Flat Work

2. Subject Property Address: 4815 NE 3rd Street

3. Subject Property District and Parcel Number: 270/01142-000-000

4. Subject Property Legal Description (attach if necessary):

N 61F S 123F W 64F LT 13 & N61F S 123F LT 14 FREEHOLD

S 61F N 183F W 64F LT 13 & S61F N 183F LT 14 FREEHOLD

(time stamp)
Official Use Only

5. Filing Fee: - \$435.00

6. Applicant(s) Information:

Kristopher Stapes

Applicant (Print Name)

Signature

2/22/2022

Date

Owner

krisstapes@gmail.com

Interest in Property (owner, renter, perspective buyer, etc.)

Email

4815 NE 3rd St, Des Moines, Iowa 50313

515-720-5236

Address, City, State and Zip

Phone

Fax

7. Applicant(s) Representative:

If the appeal is going to be represented by someone other than the applicant please provide that information below.

Scot Bokhoven

Pro Line Buildings

Applicant Representative (Print Name)

Firm or Business Name

1385 Hwy 63 PO Box 9 New Sharon, Iowa 50207

Address, City, State and Zip

sbokhoven@plbco.com

641-891-5101

641-637-2335

Email

Phone

Fax

8. Property Owner Consent:

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

Kristopher Stapes

(Print Name)

Signature

2/22/2022

Date

(Print Name)

Signature

Date

Conditional Use Permit Standards

Section 1. Review Standards

The review determines whether the proposed use should be permitted by weighing public need for and benefits to be derived from the use against the local impact which it may cause. The review shall consider the proposal in terms of:

- (A) Existing zoning and land use in the vicinity of the use; and
- (B) planned and proposed public and private developments which may be adversely affected by the proposed use; and
- (C) whether and to what extent the proposed use, at the particular location for which it is suggested, is necessary or desirable to provide a development which is in the interest of the public or which will contribute to the general welfare of the area or Polk County; and
- (D) whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety and welfare in general.

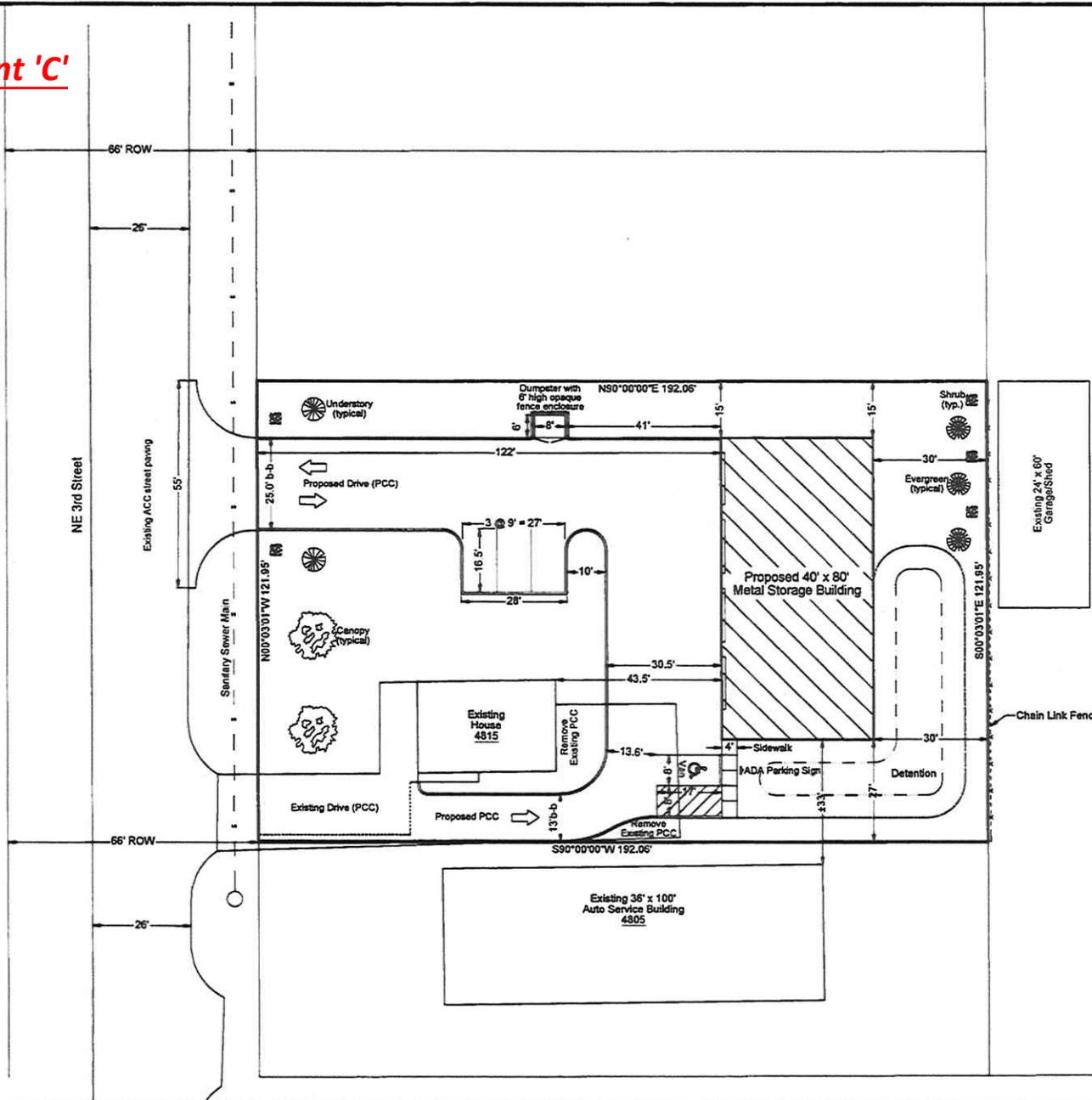
Section 2. General Standards

No application for a conditional use permit shall be approved unless the Board of Adjustment specifically finds the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of the Polk County Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County.

- (A) The proposed location and use shall be consistent with policies or provisions of the Comprehensive Plan, this Ordinance, or other plans or programs of the County.
- (B) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County or other governmental agency having jurisdiction to guide growth and development.
- (C) The proposed use in the proposed area will be adequately served by, and will not impose an undue burden on, any public improvements, facilities, utilities, and services. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and a condition to approval of the proposed conditional use permit, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time, and in a manner consistent with the Comprehensive Plan, this Ordinance, and other plans, programs, maps, and ordinances adopted by Polk County to service the development. The approval of the conditional use permit shall be conditioned upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.

Attachment 'C'



CES Campbell Engineering & Surveying
 925 E 1st St., Suite 1
 Arkeny, Iowa 50021
 Phone: (515) 963-4385
 E-mail: info@cesia.com

PRELIMINARY SITE PLAN
40' x 80' Storage Building
 4815 & 4825 NE 3rd St., Des Moines, IA 50313
 (Except N 122' & S 62') Lot 14 and West 64' of Lot 13, Freehold
 Requested By...: Kristopher Stapes (515) 720-5236
 Titleholder.....: Kristopher Stapes

FIELD WORK:		PROJECT #: K_S2201
DRAWN BY...:		FILE #...: SP2202
CHECKED BY: BRC	2/21/2022	SCALE
REVISD BY...:		SHEET
REVISD BY...:		VERT.: 1
REVISD BY...:		HORIZ.: 1"=20'
		Of 1

Kris Stapes
4815 NE 3rd St.
Des Moines, Iowa 50313
Polk County/Saylor TWSP
February 18, 2022

40' X 80' X 18'
Finish Frame
= Downspouts

