



AGENDA
PLANNING COMMISSION
COUNCIL BLUFFS PUBLIC LIBRARY, MEETING ROOM A
400 WILLOW AVENUE, COUNCIL BLUFFS, IA
Tuesday, December 11, 2018 - 6:00 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. ADOPTION OF AGENDA**
- 4. APPROVAL OF MINUTES**
- 5. PROOF OF PUBLICATION**
- 6. REVIEW OF MEETING PROCEDURES**
- 7. PUBLIC HEARINGS**

A. PC-18-003

Public hearing on the request of the City of Council Bluffs to amend the adopted planned commercial development plan for the Mid-America Center area relative to signage. Location: An area generally bounded by 23rd Avenue to the North, S. 32nd Street to the West, and Mid-America Drive to the South.

B. ZC-18-014

Public hearing on the request of David Malone to rezone the properties legally described as Lots 8-11, Auditor's Subdivision of Part of Lot 2 in Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ in Section 5-74-43, and the North 174.47 Feet of Lot 4 lying East of Valley View Lane and West of the Railroad, and Lot 5, Auditor's Subdivision or the Southeast ¼ of the Northwest ¼ in Section 5-74-43 from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential. Location: 1316, 1324, 1400, and 1408 Valley View Lane.

C. ZC-18-015

Public hearing on the request of the Council Bluffs Community Development Department to rezone property legally described as Lots 6-8 and the East 50 ft. of Lot 9, all in Block 5, Everett's Addition from I-1/Light Industrial District to R-2/Two Family Residential District.

D. ZT-18-005

Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.120, *Appeals*, in its entirety and replacing it with a new appeal procedure under the same code section and name.

E. ZT-18-006

Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.130, *Enforcement*, and replacing it with Section 15.02.130, *Violation and Penalty*.

8. OTHER BUSINESS

9. ADJOURNMENT

If you plan to attend this meeting and require special assistance please contact the Community Development Department at (712) 328-4629 at least 48 hours before the meeting.

Planning Commission Communication

Department: Community
Development

Case/Project No.: PC-18-003

PC-18-003

Council Action: 12/11/2018

Submitted by: Christopher

Gibbons, Planning Coordinator

Description

Public hearing on the request of the City of Council Bluffs to amend the adopted planned commercial development plan for the Mid-America Center area relative to signage. Location: An area generally bounded by 23rd Avenue to the North, S. 32nd Street to the West, and Mid-America Drive to the South.

Background/Discussion

See attachments.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
PC-18-003 MAC Complex Area Staff Report PC final	Other	12/6/2018
PC-18-003 Attach A	Other	12/6/2018
PC-18-003 Attach B	Other	12/6/2018
PC-18-003 Attach C	Other	12/6/2018
PC-18-003 Attach D	Other	12/6/2018
PC-18-003 Attach E	Other	12/6/2018

Planning Commission Communication

<p>Department: Community Development</p> <p>CASE #PC-18-003</p> <p>Owner/Applicant: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51501</p> <p>Pat Miller, Director Building Maintenance and Operations City of Council Bluffs 1001 10th Avenue Council Bluffs, IA 51501</p>	<p>Resolution No.</p>	<p>Planning Commission Meeting: 12/11/18</p>
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Subject/Title

Request: Amend the approved planned commercial development plan for the Mid-America Complex (MAC) relative to signage.

Location: An area generally bound by 23rd Avenue to the North, South 32nd Street to the West, and Mid-America Drive to the South.

Background/Discussion

On August 26, 2002, the Council Bluffs City Council approved Resolution No. 02-246, which established design standards for attached signage at the Mid-America Arena and Convention Center and detached signage throughout the Mid-America Center Complex. The following signs were approved as part of Resolution No. 02-246:

- One marquee sign measuring 45’ in height and containing approximately 560 square feet of display space per face;
- Two monument signs each measuring 5’6” in height and extending 37’6”. These signs were proposed to be placed at the 24th Avenue/South 32nd Street entrance and west along the boulevard at the south entrance to the convention center;
- Building entry identification signs on the arena and convention center entrances;
- Box office identification sign;
- Pedestrian directional signs attached to three decorative light poles near the arena/convention center entrances;
- Twenty-four (24) vehicle directional signs, each measuring 6’7” in height, 4’ wide, and tilted at a 70° angle;
- Four light pole banner signs along the arena entrance with changeable graphic panels;
- Parking lot identification signs on light poles, each measuring 2’10” x 1’4”; and
- Building sponsorship signage is reviewed and approved administratively by the Director of the Community Development. The Director retains the right to refer decisions for building sponsorship signage to the Planning Commission for review and recommendation to the City Council for action.

The City of Council Bluffs, represented by Mr. Pat Miller (Director of Council Bluffs Operations-Building Maintenance Division), requests approval to amend the adopted planned commercial development plan for the Mid-America (MAC) Complex, relative to detached signage only. All signs included in this amendment will be owned and maintained by the City of Council Bluffs and will be located on City-owned property and/or right-of-way, with the exception of two wayfinding signs on the Horseshoe Casino property. The purpose of this amendment is described in a letter of intent by Mr. Miller (see Attachment A) and is summarized below as follows:

1. Replace all existing detached signs (e.g., pylon, wayfinding, and parking lot/light pole banners signs) that were installed in 2002 with new signs that are clearly visible and modern in terms of design and technology (see Attachment B);
2. Add a new 35' tall secondary pylon sign, two (7'4" x 40') monument signs, and six (7'4" tall) way-finding signs (see Attachment C);
3. Designate an area of the City geographically bounded by 23rd Avenue to the North, South 24th Street to the West, Mid-America Drive to the South, and Interstate I-29 right-of-way to the West as the 'Mid-America Center Entertainment District'. The goal of this District is to attract family friendly businesses, entertainment, as well as, encourage repeat visitors to the Mid-America Center Area. This District will also businesses within said geographic boundary, zoned PC/Planned Commercial, the ability to have off-premise advertising on the proposed City-owned signs around the Mid-America Center Area (see Attachment D). *Note: This District does not establish any new zoning and/or subdivision regulations on properties located within it, nor does it change the standards for any existing signs on privately owned property; and*
4. Establish a new 'Mid-America Center Entertainment District' signage policy that allows businesses within said District, zoned PC/Planned Commercial, the option to place off-premise advertising on the proposed new pylon and wayfinding signs around the Mid-America Center Area (see Attachment E).

The following signage is proposed with this plan amendment request:

Pylon Signs

1. One interstate oriented pylon sign located at the south main entrance to the Mid-America Center Entertainment District within City right-of-way:
 - a. Maximum height: 50 feet (as measured from finished grade to the top of accent light).
 - b. Maximum sign square footage: 460 square feet (per sign face) consisting of one 8'x20' (160 square foot) non-electronic sign and one 15' x 20' (300 square foot) digital sign.
2. One secondary pylon sign located at northwest main entrance to the Mid-America Center Entertainment District within City right-of-way:
 - a. Maximum height: 35 feet (as measured from finished grade to the top of accent light).
 - b. Maximum sign square footage: 115 square feet (per sign face) consisting of one 3.5' x 10' (35 square foot) non-electronic sign and one 8'x10' (80 square foot) digital sign.

Monument Signs

1. Two signs, each measuring a maximum height of 7'4" and extending a maximum of 40 feet in length and containing a maximum of 175 square feet of signage, which includes a 5'x10' (50 square foot) digital sign.
2. One monument sign will be located at the southeast corner of the intersection of Bass Pro Drive and 24th Avenue, and the second monument sign will be located at the northwest corner of the intersection of Marc Boulevard and Bass Pro Drive. Both monument signs will be located within City right-of-way and are intended to direct the public to various components within the Mid-America Center Entertainment District as well as advertise upcoming events.

Wayfinding Signs

1. A total of 23 individual, freestanding pedestrian/vehicular wayfinding signs will be installed throughout the Mid-America Center Entertainment District on City-owned property or City right-of-way. These signs are intended to direct the public to additional site amenities and building entry points around the Mid-America Center Entertainment District. *Note: Signs identified as #20 and #24 on Attachment B are proposed to be located on the Horseshoe Casino property and will be used to guide traffic entering/existing their site to destinations within the Mid-America Center Entertainment District. The City received an email from Mr. Samir Mowad, Senior Vice President and General Manager of Caesars Entertainment (owner/operator of the Horseshoe Casino) on December 3, 2018 stating said wayfinding signs are approved to be located on their property.*
2. Maximum height: 7'4" (as measured from finished grade to the top of the sign).
3. Maximum sign square footage: 18 square feet per sign face.

Parking Lot/Street Light Banner Signs

1. A total of 19 banner signs will be attached to light poles located in the north, south, and west parking lots. Each banner sign shall not exceed 2'x4' (8 square feet) in size and shall be used to provide clarity as to which parking lot a vehicle is parked within.
2. A total of 19 banner signs will be attached to perimeter street light poles located along Bass Pro Drive, Marc Boulevard, 24th Avenue, and parking lot drive aisle adjacent to the northerly façade of the Mid-America Area/Convention Center. Each banner sign shall not exceed 2'x4' (8 square feet) in size and shall be used to identify the Mid-America Center Entertainment District.

CURRENT ZONING & LAND USE – The Mid-America Center Area is zoned P-C/Planned Commercial and contains a mixture of entertainment, restaurant, retail, and hotel land uses. The proposed Mid-America Center Entertainment District is a broader area that encompasses properties zoned PC/Planned Commercial District, C-2/Commercial District, and I-2/Industrial District. Land uses in this area include all previously mentioned uses in the Mid-America Center Area, as well as, Sapp Brothers, Peterbuilt, Super 8 Motel, Hooters, Ruby Tuesday, Quaker Steak and Lube, Doll Distributing, and XPO Logistics.

CITY DEPARTMENTS AND UTILITIES – All appropriate City departments and utilities were notified of the proposed signage amendment. Additionally, the Iowa Department of Transportation (IDOT) was provided a copy of the proposed signage plan amendments as a portion of the Mid-America Center Entertainment District is located within IDOT's Council Bluffs Interstate System Corridor Preservation Zone. The following comments were received:

- Council Bluffs Fire Department stated they have no comments for the request.
- Council Bluffs Water Works stated they have no comments for the request.

- Black Hills Energy stated they have no concerns with the request.
- Mid-American Energy Company stated they have no objections to the development plan amendment provided the appropriate clearance is maintained from all existing underground, pad-mounted, and overhead electrical distribution facilities in the area.
- Iowa Department of Transportation (IDOT) stated the proposed 50' tall interstate pylon sign, adjacent to I-80/29, is located within 250 feet of an interstate ramp taper and therefore cannot be used as a billboard. The Council Bluffs Public Works Department contacted Mr. Brooks Glasnapp, Advertising Management Supervisor for IDOT, and explained the purpose and intent of the proposed pylon sign. Mr. Glasnapp agreed that proposed interstate pylon sign could be allowed as an "official city sign" if it is limited to the identification of city facilities or facilities in operation on City-owned property within the MAC Entertainment District.

For clarification purposes, this approval from Mr. Glasnapp means the interstate pylon sign may be used to advertise events at the Mid-America Center Arena/Convention Center and Bass Pro Shop since these are all City-owned facilities. Additionally, businesses and events that occur at the Iowa West Foundation Field House and The Plaza will have the ability to advertise on this pylon sign since their off-street parking and pedestrian access are solely dependent upon City owned parking facilities. No other business in the MAC Entertainment District will be allowed to advertise on this sign. IDOT further stated they have no concerns with the wayfinding signage nor the secondary pylon signs since their lettering will not be visible from the interstate.

COMMENTS

1. The planned commercial review process allows some flexibility in approving signage to assure that visitors are directed onto the site and can safely find where they need to go upon arrival. Complete development plans, including signage, are to be reviewed by the City Planning Commission and approved by City Council for all properties zoned P-C/Planned Commercial in the MAC Entertainment District prior to issuance of any permits or certificate of occupancy. Development plans can be amended to incorporate the plan reviews and approvals.
2. The proposed signs are generally consistent with the height/size standards that were included in the adopted signage plan for the Mid-America Center in 2002. The only significant changes to the adopted signage plan is the installation of a new pylon sign at the northwest entrance to the MAC Entertainment District, digital signs embedded onto each pylon sign, and increased height/sizes on the monument and wayfinding signs.
3. The two monument signs in this amendment were included in the approved development plan in 2002 but were never constructed after their foundations were laid. Both signs will be intended to be placed on these existing foundations.
4. The Community Development Department concurs that the proposed new signage, MAC Entertainment District designation, and MAC Entertainment District sign policy will enhance the City's ability to promote the MAC Area as a regional entertainment destination and will help attract visitors and new businesses within it.
5. There are no plans at this time to modify the signage attached to the Mid-America Center Arena/Convention Center. Any proposed sign changes to these facilities will require an amendment of the adopted planned commercial development plan for the Mid-America Center Complex.

Recommendation

The Community Development Department recommends amending the adopted planned commercial development plan for the Mid-America Complex (MAC), as follows:

1. Approval of all proposed new detached wayfinding, pylon, street light/parking lot banners, and monument signs as per Attachment C;
2. Approval to designate an area of the City geographically bounded by 23rd Avenue to the North, South 24th Street to the West, Mid-America Drive to the South, and Interstate I-29 right-of-way to the West as the ‘Mid-America Center Entertainment District’, for purpose of allowing businesses within said District, zoned PC/Planned Commercial District, the ability to have off-premise advertising on the proposed City-owned signs around the Mid-America Center Area, as per Attachment D; and
3. Approval of the establish a ‘Mid-America Center Entertainment District’ signage policy that allows businesses within said District, zoned PC/Planned Commercial, the option to place off-premise advertising on the proposed new pylon and wayfinding signs around the Mid-America Center Area, as per Attachment E.

Attachment A: Letter of intent

Attachment B: Existing signage map

Attachment C: Proposed signage renderings

Attachment D: Mid-America Center Entertainment District maps

Attachment E: Proposed Mid-America Center Entertainment District signage policy

Prepared by: Christopher N. Gibbons, AICP, Planning Coordinator



Interoffice Memo

To: Community Development
From: Pat Miller / Director Operations
Cc:
Date: November 8, 2018
Re: MAC Signage Project

Since its opening in 2002, the Mid-America Center has hosted hundreds of live shows and sporting events each year. As the Entertainment District around the Arena and Convention Center continues to improve with new additions such as the Field House, the soccer complex, and businesses within the Plaza, it will become a high traffic area even more so. The goal of this Entertainment District, as always, is to attract family friendly business and entertainment and encourage repeat visitors.

Current way finding signage within the District has become antiquated with age and new construction, along with the need for new locations. The existing electronic pylon sign has been inoperable for the past few years and reached an age where parts and repairs are not available.

A new signage system that more clearly directs the user, as well as a homogenous design aesthetic, is highly important in continuing the momentum of the District. Therefore, the area needs signage that is eye-catching, clear, and advanced, and directional way finding signs that are highly visible and up-to-date.

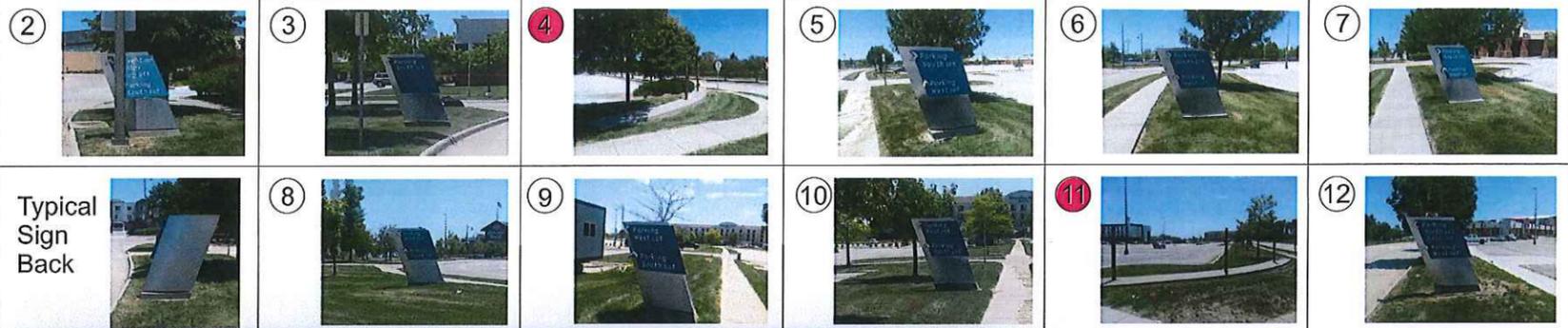
There is currently a great opportunity with matching funds from the Iowa West Foundation and the City of Council Bluffs to improve the way finding and pylon signage with an improved and more automated advertising system. The Iowa West Foundation has dedicated \$500k with a matching \$500K from the City's approved FY-18 CIP budget to complete a signage project for advanced way finding signs and highly visible video board advertising of the MAC Entertainment District.



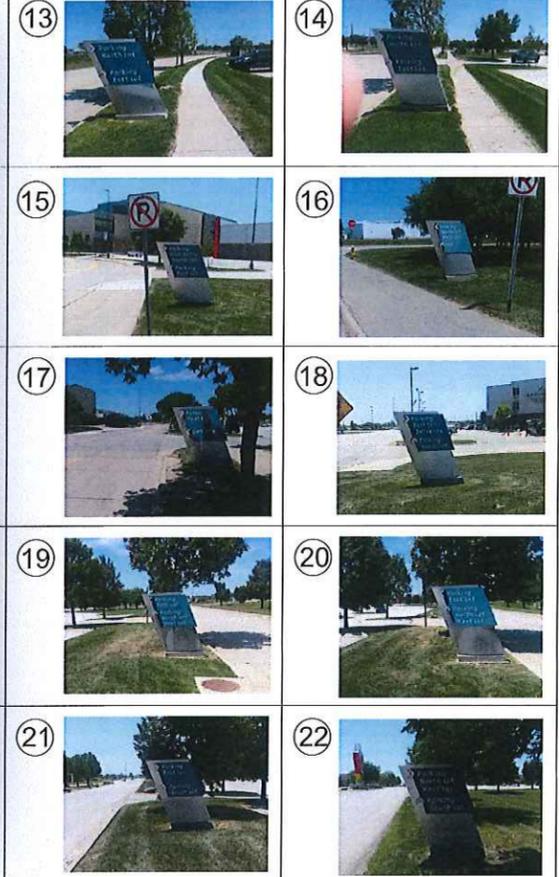
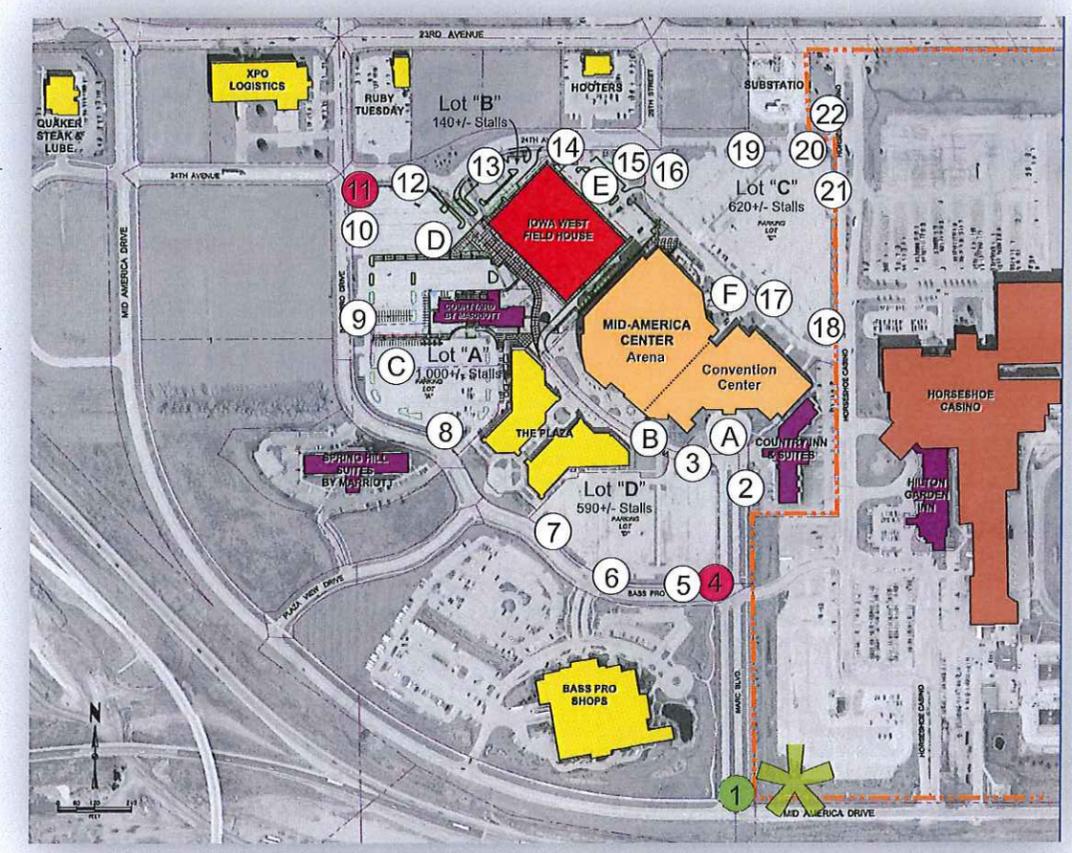
Looking West



Looking East



Typical Sign Back



Existing Signage

-  Pylon
-  Monument (Footings Only)
-  Wayfinding



Typical Ground Sign

Parking Lot Signage

25% of the poles have signage. Only face one way.
The perimeter street light poles have banners.



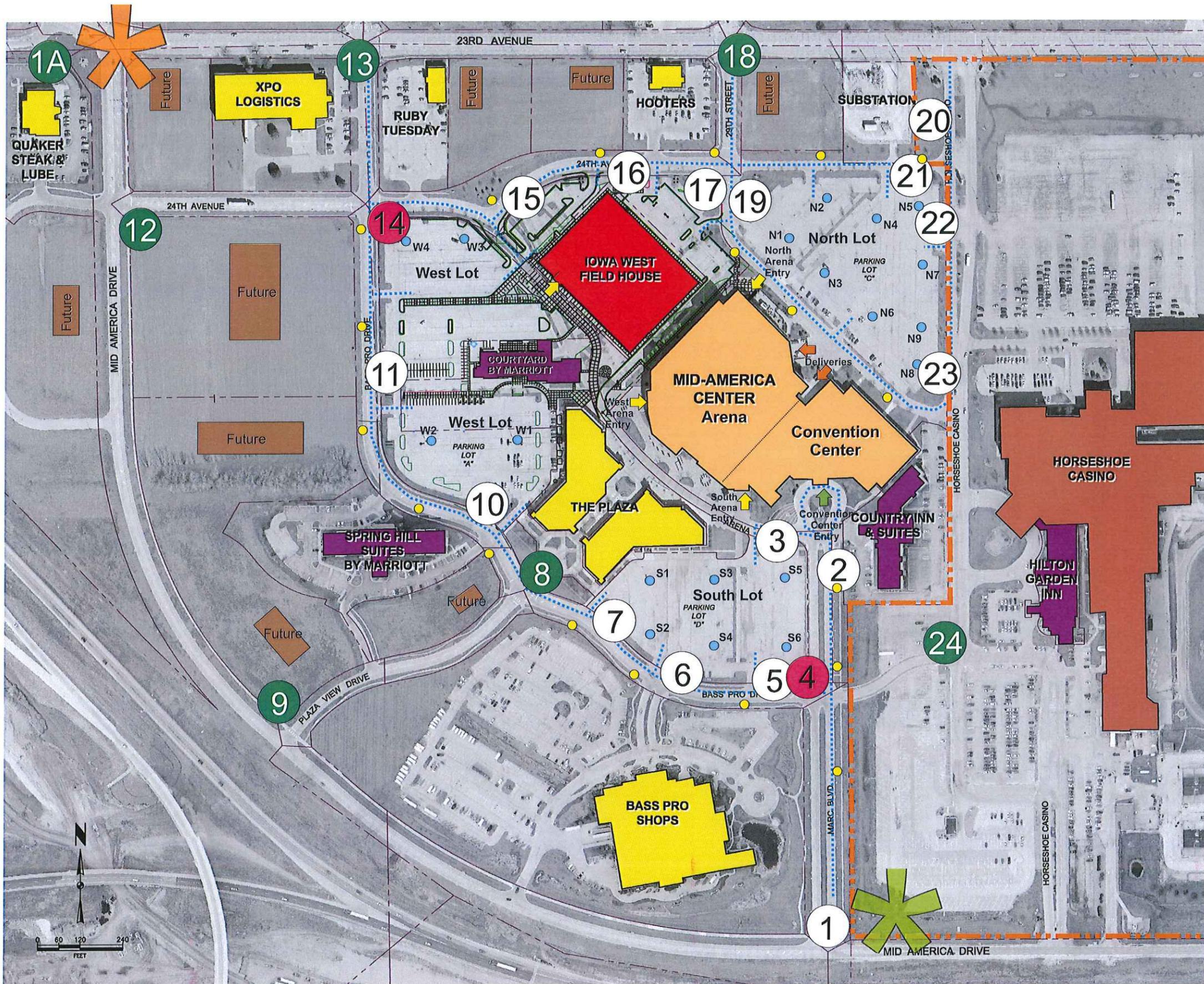
Light Pole in Parking Lot

Building Signage



Preliminary Design





Proposed Signage Locations

-  Interstate Pylon
45' Tall
-  Secondary Pylon
30' Tall
-  Monument
Use Existing Footings
-  Wayfinding
-  # 6 are new locations
-  Parking Lots
Location Signage
w/ Banners on
Light Poles
-  Banners on
Street Light Poles

Preliminary Design



Interstate Oriented Pylon



Monument

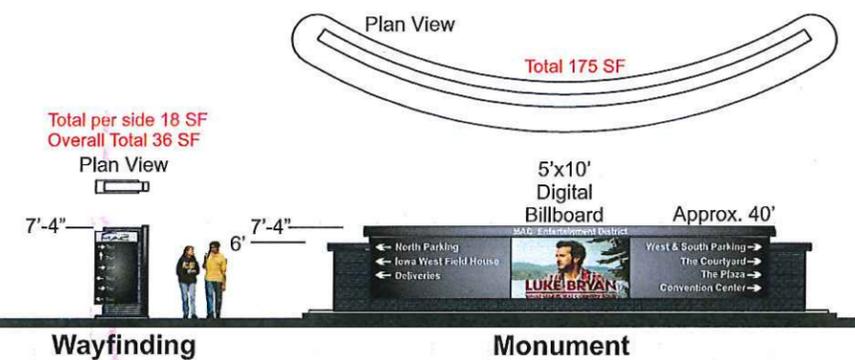
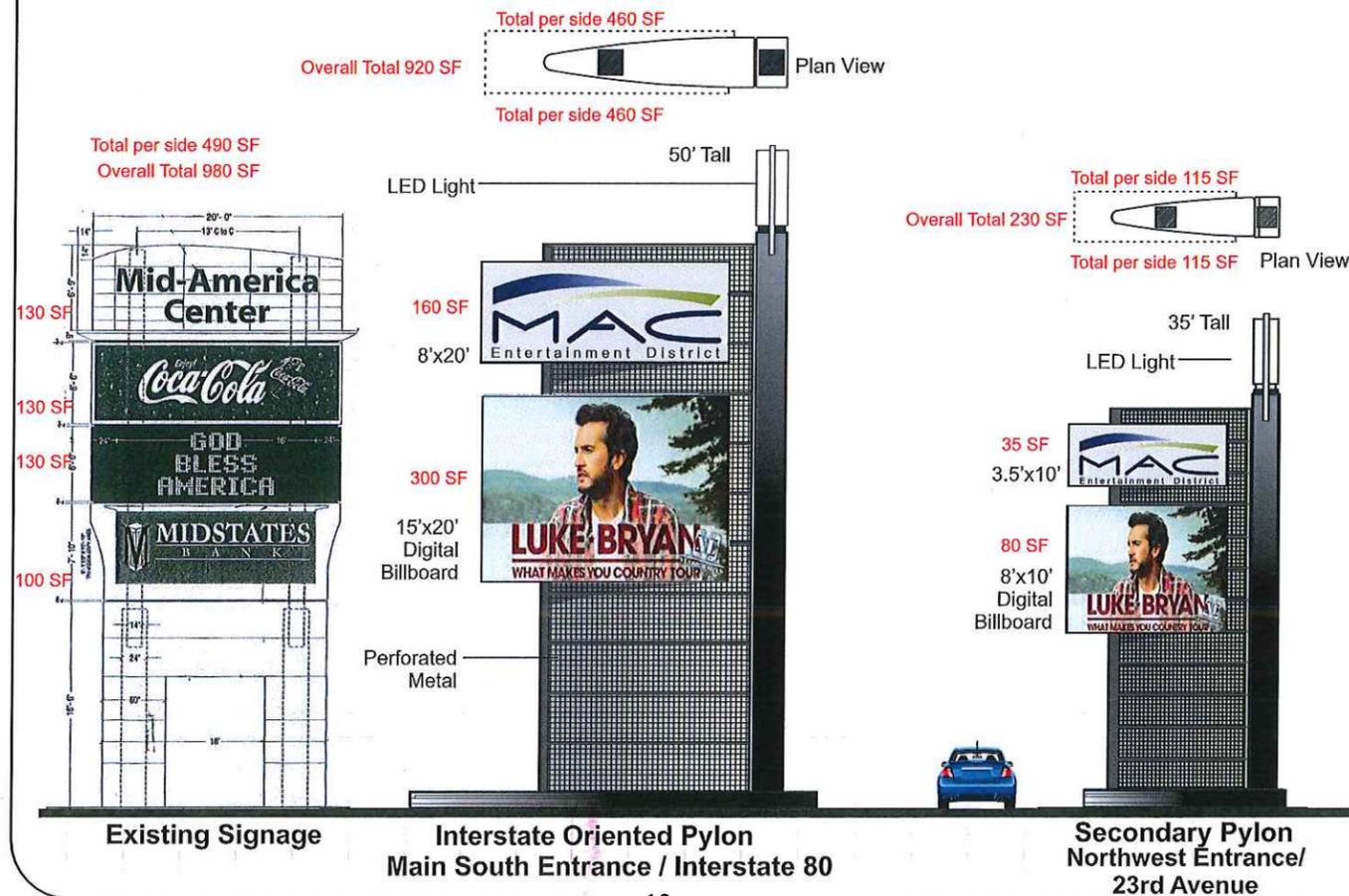


Wayfinding



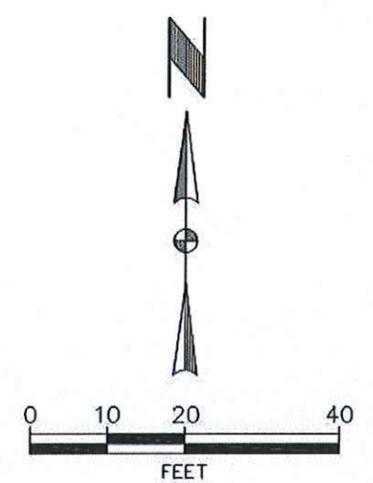
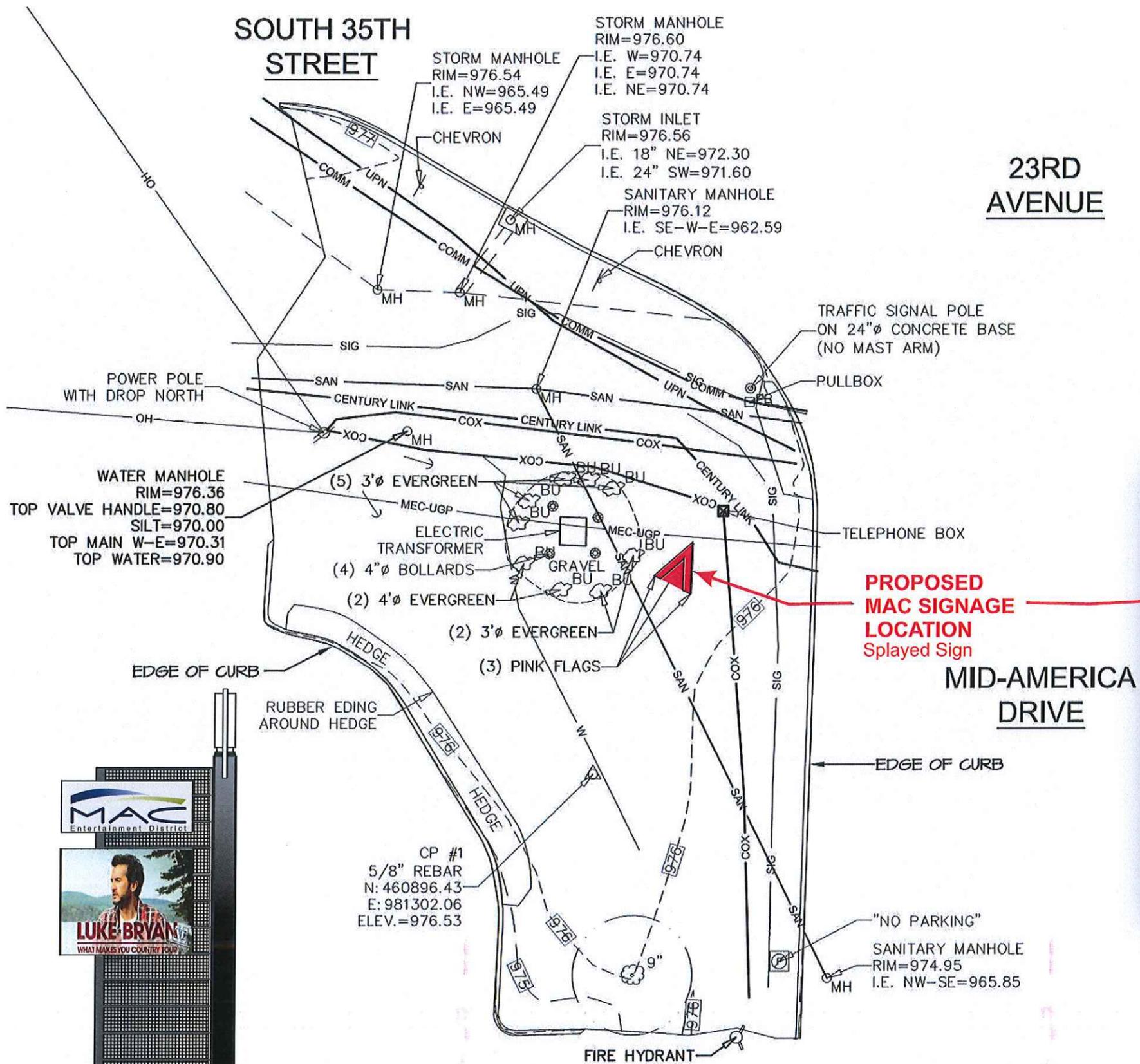
Banners:
Street

Banners:
Parking

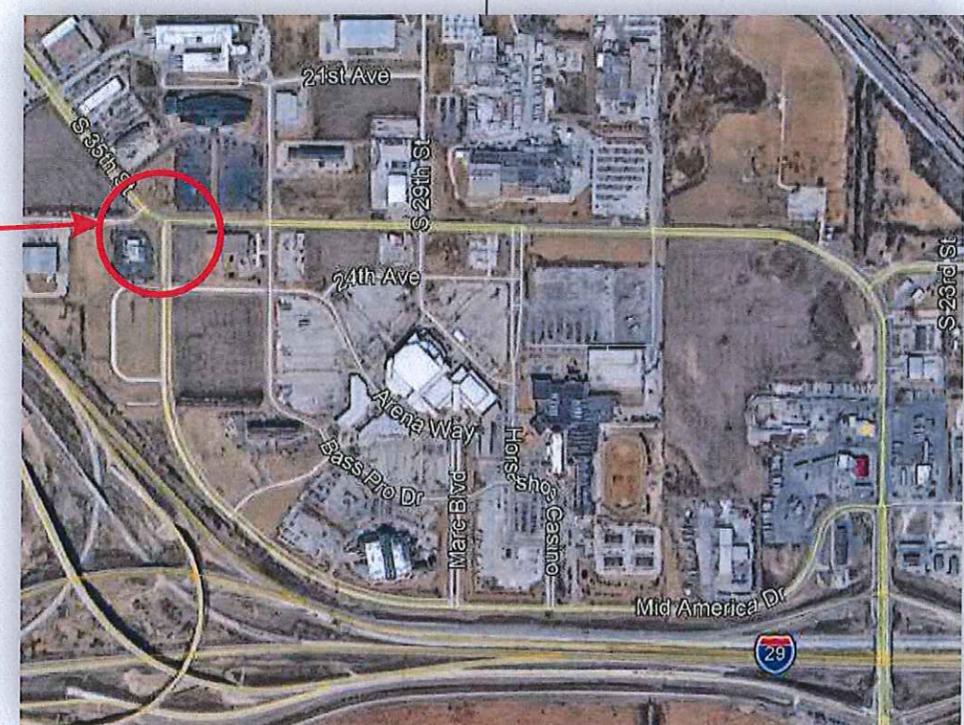


Preliminary Design

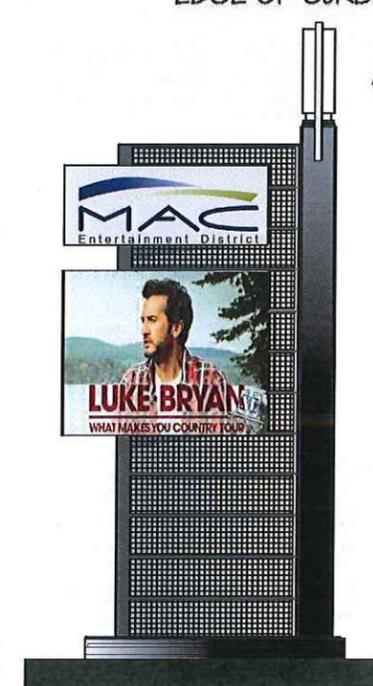




Utility Locations



**PROPOSED
MAC SIGNAGE
LOCATION**
Splayed Sign



**Proposed Pylon Sign at
South 35th Street & 23rd Avenue**

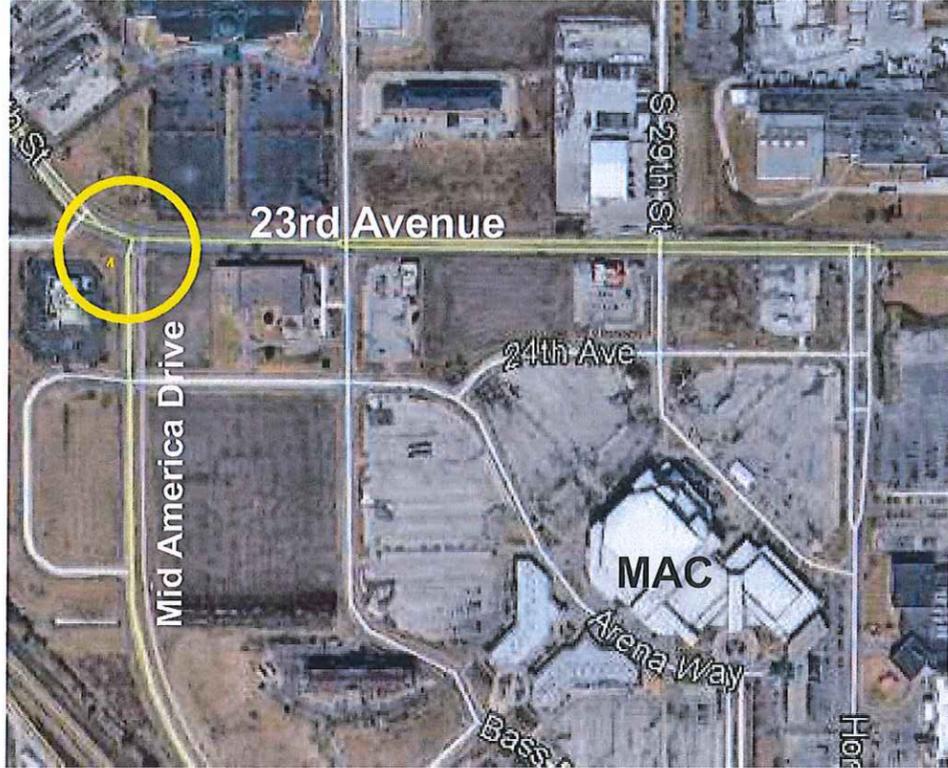


**Proposed Pylon Sign at
South 35th Street & 23rd Avenue**



ATTACHMENT C

Location of Proposed Pylon Sign



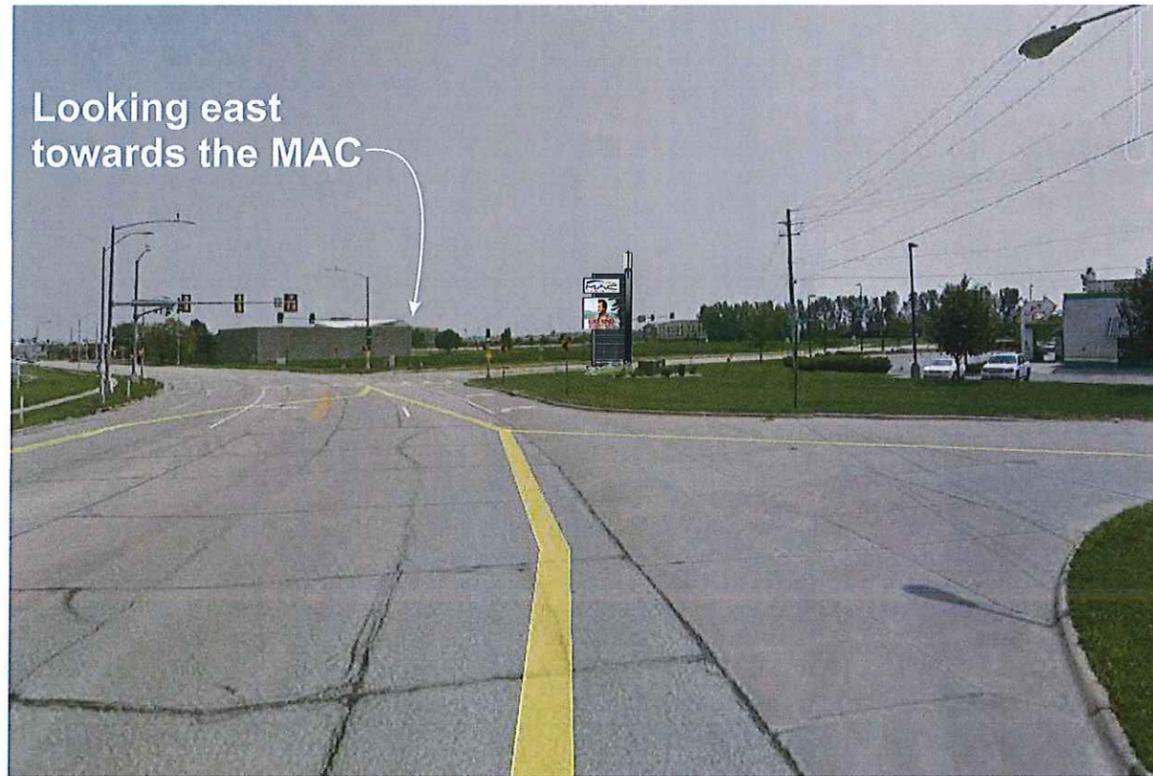
Possible Location



23rd Avenue Looking West



23rd Avenue & Mid America Drive

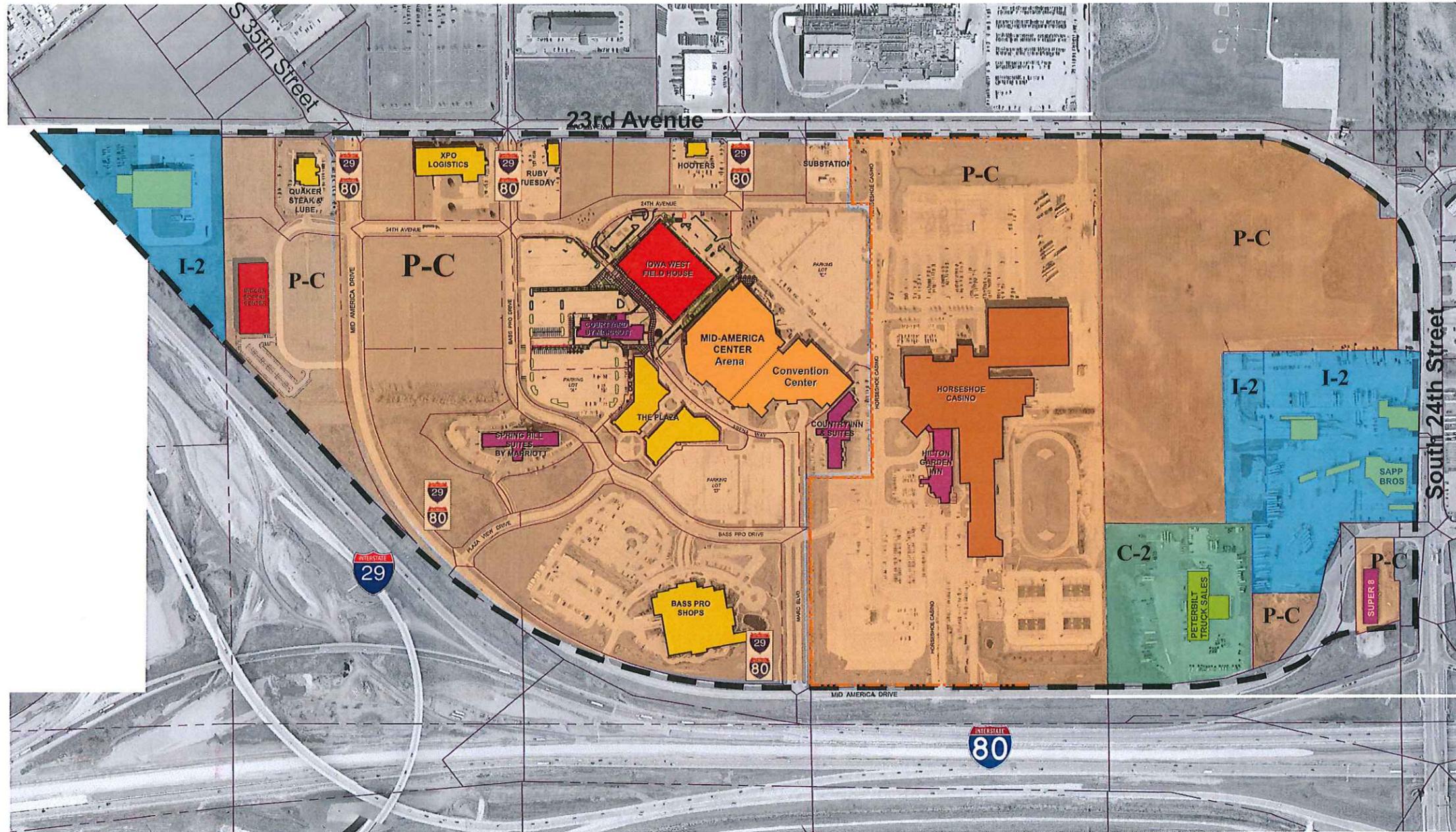


**23rd Avenue &
Mid-America Drive
Signage Study
Location**

Preliminary Design



Exhibit-1



Zoning Overlay

- P-C
- I-2
- C-2

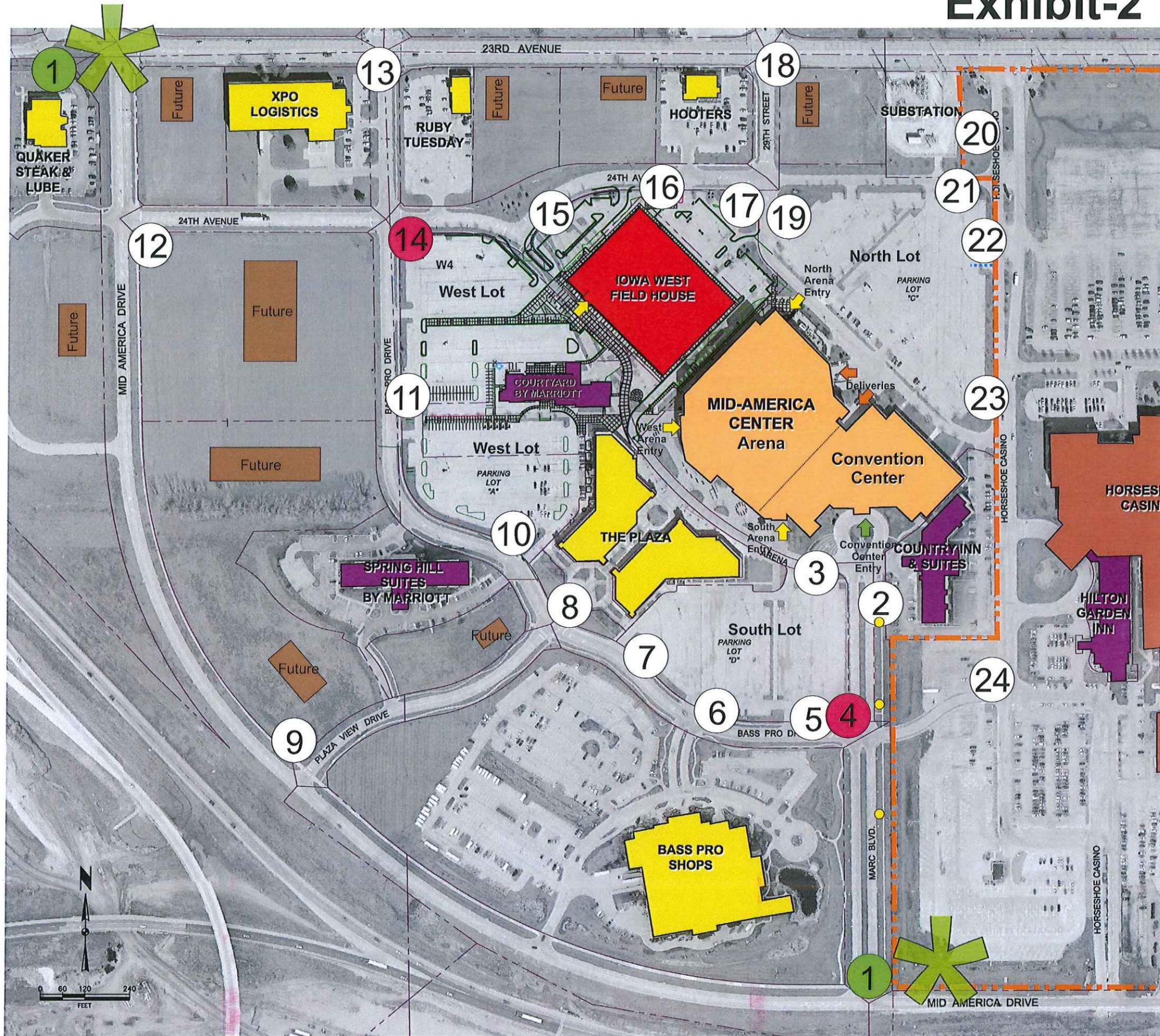
--- MAC Entertainment District

Preliminary Design



ATTACHMENT D

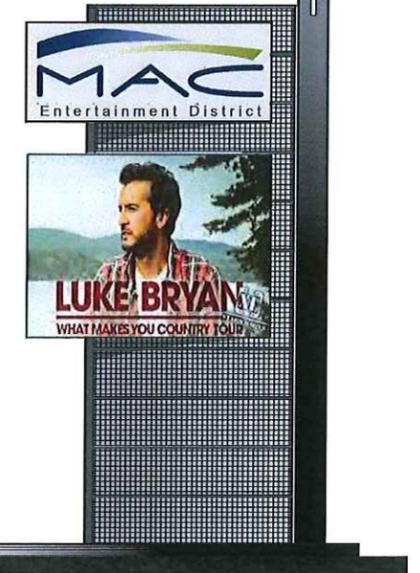
Exhibit-2



Proposed Signage Locations



Pylon



Monument



Wayfinding



Pylon

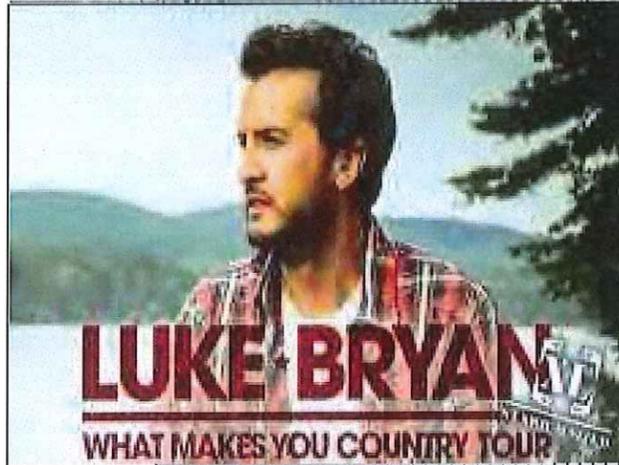
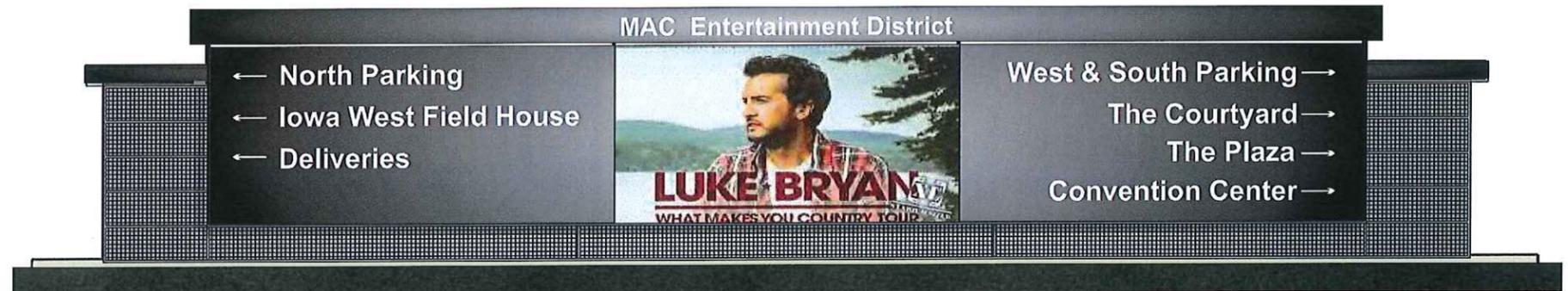


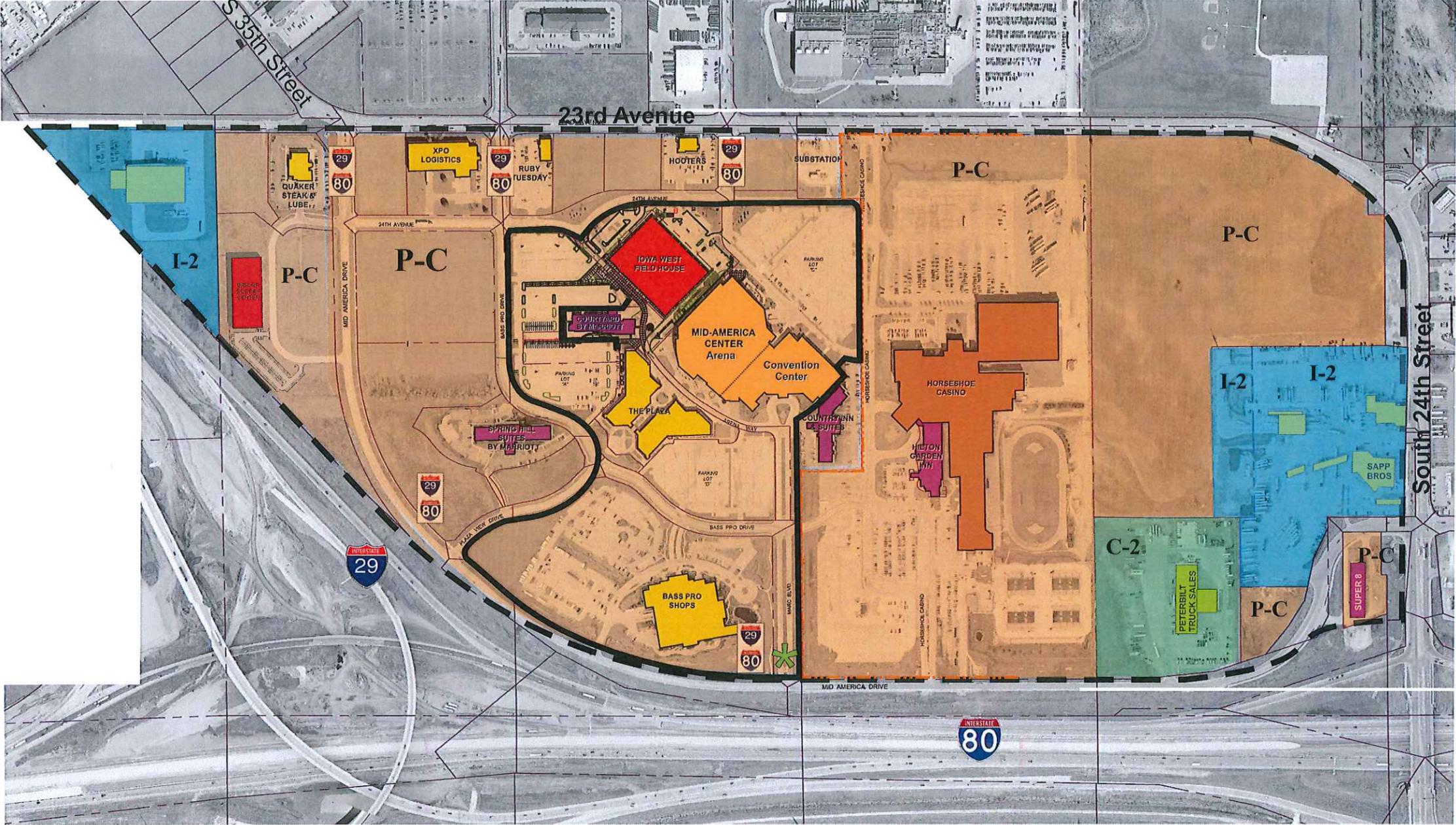
Exhibit-3



Monument

ATTACHMENT D

Exhibit-4



Zoning Overlay

- P-C
- I-2
- C-2

--- MAC Entertainment District

Preliminary Design



City of Council Bluffs

MAC Entertainment District Signage Policy

The policy shall apply to all properties zoned planned commercial (PC) within the MAC Entertainment District area (Exhibit 1). Properties not currently zoned PC shall be eligible to be added to said area as they change zoning status.

It is not the intent of this policy to change the current configuration of already placed existing signage in PC, I-2 or C-2 zone businesses.

Wayfinding Signage:

1. Wayfinding signage is limited to those properties zoned PC within the MAC Entertainment District and shall not apply to businesses zoned as C-2 or I-2. Properties not zoned PC may be eligible to be added to signage as zoning status changes (Exhibit 2).
2. Wayfinding signage shall not apply to businesses who currently have detached signage.

Pylon and Monument Signage:

1. The following type of City event centers may, upon the approval of the City's Communications Officer, have the opportunity to place messages on the pylon and monument signage (Exhibit 3). The Communications Officer shall have the authority to determine which organizations may place messages on signage as well as order, dates, and duration of messaging.
 - a) Mid-America Center Convention Center/Arena
 - b) Iowa West Foundation owned facilities within the Entertainment District
 - c) other City event centers within the MAC Entertainment District zoned PC
 - d) other City government alerts and functions
2. The Pylon sign specifically located at Marc BLVD, Mid America DR may only be utilized for advertising by city owned, and Iowa West facilities located and in operation on city owned properties and lots Exhibit-4.
3. The City's Communications Officer may grant access to personnel from above event centers to have access to post directly to signage if volume deems necessary. Authorized personnel will be trained on policy, process, and procedure. The City's Communications Officer reserves the right to withdraw access and/or change messaging posted by authorized personnel.
4. All City sponsored events and City event centers shall have priority over advertising. All other submissions will be given priority based on time received and availability.

5. Businesses (PC) within the entertainment district may request to utilize the message signs. A request to display does **not** guarantee the message will run. The City reserves the right to assess a fee to businesses utilizing signage.
6. The Mayor or his/her Designees shall have the sole authority to review and approve any amendment and or changes to the policy.
7. The number of messages which appear in any given time period is limited. During busy times, the City's Communications Officer may elect to limit or not program submitted events. Setup, frequency, and length of messages is at the sole discretion of the City.
8. The City reserves the right to refuse or delay appearance of the message if deemed necessary, or in the case of emergencies.
9. Signage shall not be used to advertise or display messages for businesses or organizations outside the MAC Entertainment District.
10. There shall be no political messages displayed.
11. No vulgar language or inappropriate content shall be accepted, and is at the discretion of the City.
12. The City shall not be liable for any stoppage or breakdown of signage.

Planning Commission Communication

Department: Community
Development

Case/Project No.: ZC-18-014

ZC-18-014

Council Action: 12/11/2018

Submitted by: Chris Meeks,
Planner

Description

Public hearing on the request of David Malone to rezone the properties legally described as Lots 8-11, Auditor's Subdivision of Part of Lot 2 in Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ in Section 5-74-43, and the North 174.47 Feet of Lot 4 lying East of Valley View Lane and West of the Railroad, and Lot 5, Auditor's Subdivision or the Southeast ¼ of the Northwest ¼ in Section 5-74-43 from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential. Location: 1316, 1324, 1400, and 1408 Valley View Lane.

Background/Discussion

See attachments.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZC-18-014 Staff Report Including Attach A, B and C	Other	12/6/2018

Planning Commission Communication

<p>Department: Community Development</p> <p>CASE # ZC-18-014</p> <p>Applicant/Property Owner: David Malone 1340 Valley View Lane Council Bluffs, IA 51503</p> <p>Property Owners: Tim and Michelle Hogueison 1316 Valley View Lane Council Bluffs, IA 51503</p> <p>Margaret Cozad 1324 Valley View Lane Council Bluffs, IA 51503</p> <p>Keith Zuehlke 1400 Valley View Lane Council Bluffs, IA 51503</p> <p>Dennis and Dorries Loghry 1408 Valley View Lane Council Bluffs, IA 51503</p>	<p>Ordinance No. _____</p>	<p>Planning Commission: 12/11/2018</p>
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Subject/Title

Request: Public hearing on the request of David Malone to rezone the properties described as Lots 8-11, Auditor's Subdivision of Part of Lot 2 in Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ in Section 5-74-43, and the North 174.47 Feet of Lot 4 lying East of Valley View Lane and West of the Railroad, and Lot 5, Auditor's Subdivision or the Southeast ¼ of the Northwest ¼ in Section 5-74-43 from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential.

Location: 1340, 1316, 1324, 1400, and 1408 Valley View Lane

Background

The Community Development Department has received an application from David Malone to rezone his property at 1340 Valley View Lane, from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential. The applicant expanded the request at the advice of the Community Development Department and with the permission of adjacent property owners to rezone the remainder of the homes on the block, addressed as 1316, 1324, 1400, and 1408 Valley View Lane from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential. The entirety of area proposed to be rezoned is legally described as Lots 8-11, Auditor's Subdivision of Part of Lot 2 in Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ in Section 5-74-43, and the North 174.47 Feet of Lot 4 lying East of Valley View Lane and West of the Railroad, and Lot 5, Auditor's Subdivision or the Southeast ¼ of the Northwest ¼ in Section 5-74-43. Currently, the subject properties contain residential dwellings, which are consistent with neighborhoods that are typically zoned R-1/Single Family Residential. The applicant has requested the rezoning to allow a greater structure-coverage maximum for the lots, as in the A-2 District, only 10% of the total square footage of a property is allowed to be covered in structures, whereas in the R-1 District, 35% of the property can be covered in structures.

Land Use and Zoning

The following zoning and land uses surround the subject properties:

- North: A residential structure and undeveloped land that is zoned A-2/Parks, Estates and Agricultural District, as well as Interstate 80.
- South: A commercial building that is zoned in the C-2/Commercial District
- East: A railroad line, the Council Bluffs municipal boundary, and undeveloped land that is currently under the jurisdiction of Pottawattamie County.
- West: Valley View Lane, and a commercial structure that is zoned C-2/Commercial District.

The future land use plan of the Bluffs Tomorrow 2030 (comprehensive Plan) designates the subject property as Regional Commercial.

Public notices were mailed to all property owners within 200 feet of the request. No comments were received for the request.

All City Departments and local utilities were notified of the proposed rezoning. The following comments were received:

- The Council Bluffs Fire Marshall stated they have no comments on the request.
- The Permits and Inspections Division stated the subject properties use on-site septic systems, and there is not currently public sewer located in the right-of-way in front of each lot. Each property owner will be required to account for the area requirements for septic and lateral fields as well as potable wells, or to connect to a public sewer line.
- The Public Works Department stated they have no comments regarding the rezoning request.
- Council Bluffs Water Works stated they have no comments on the request.

The following attachments are included with the case staff report:

- Attachment A: Location/zoning map
- Attachment B: Aerial Photos
- Attachment C: Approval of Owners of Properties Included in the Rezoning Request

Discussion

1. If approved, the subject properties will be zoned to a district that is consistent with the general character of the neighborhood. The subject properties all feature single family dwellings which are allowed in the A-2/Parks, Estates and Agricultural District, but are more generally associated with the R-1/Single Family Residential District.
2. The subject lots do not comply with the minimum lot size dimensions (150 ‘by 200’) or, lot area (3 acres) for properties zoned in an A-2 District. Approval of the rezoning request will bring the lots into conformance, as their sizes meet minimum R-1 District standards, with the exception of 1408 Valley View Lane, which does not meet the required depth of 100 feet, while it does meet the area requirement of 5,000 square feet.
3. All of the lots in the proposed rezoning with the exception of 1340 Valley View Lane currently exceed the 10% structure coverage maximum for the A-2 Zoning District. All of the properties would be in conformance with the 35% structure coverage maximum for the R-1 District, if rezoned.
4. While the rezoning would allow the subject properties a greater structure coverage maximum, individual property owners will still need to adequately address all utilities, including sewer and water. No building permits will be approved until the subject property adequately addresses the sewer and water needs for that property.
5. A sanitary sewer line has been extended a portion of the way along Valley View Lane, though it does not front any individual properties. If on-site septic systems cannot be installed, properties will need to connect to the sanitary sewer line.

6. 1230 Valley View Lane was not included in the request due to an accessory structure having a larger footprint than the principal structure, which is allowed in the A-2 District, but would be nonconforming in the R-1 District.

Recommendation

The Community Development Department recommends approval of the request to rezone the properties legally described Lots 8-11, Auditor's Subdivision of Part of Lot 2 in Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ in Section 5-74-43, and the North 174.47 Feet of Lot 4 lying East of Valley View Lane and West of the Railroad, and Lot 5, Auditor's Subdivision or the Southeast ¼ of the Northwest ¼ in Section 5-74-43, from A-2/Parks, Estates and Agricultural District to R-1/Single Family Residential District, based on reasons stated above.

Attachments

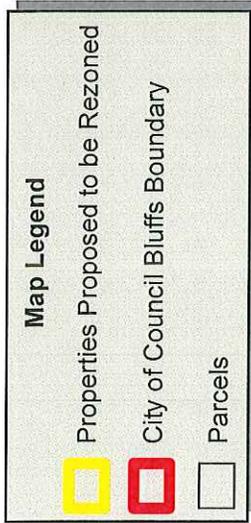
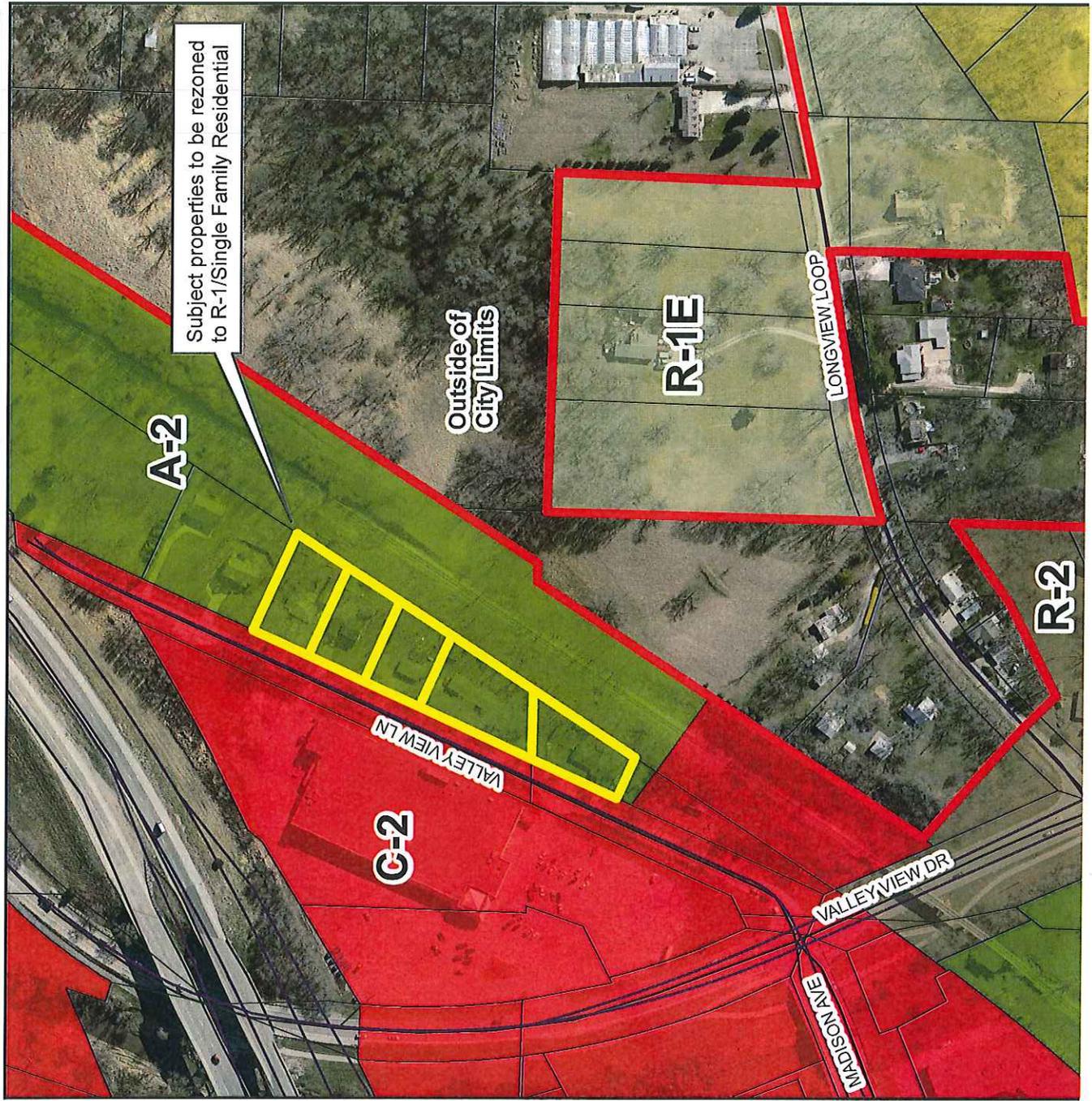
Attachment A: Location/zoning map

Attachment B: Aerial Photos

Attachment C: Approval of Owners of Properties Included in the Rezoning Request

Prepared by: Chris Meeks, Planner

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #ZC-18-014 LOCATION/ZONING MAP



Last Amended: 11/16/18

DISCLAIMER
This map is prepared and compiled from City documents, plans and other public property notified that the City expressly disclaims any liability for errors or omissions of any kind in the information contained on this map. The user of this map assumes all responsibility for the accuracy of information obtained and no liability is assumed for the information contained on this map.

Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4629

Attachment B

Aerial Photos



Above: Aerial photo of the subject properties facing South.

Below: Aerial photo of the subject property facing East.



Attachment C

Approval to rezone property from A-2 to R-1.

Name DENNIS Loghny
Address 1408 Valley View Lane
Signature Dennis Loghny

Name Michelle Hogueison
Address 1311 Valley View Lane
Signature Michelle Hogueison

Name Margret Cozad
Address 1324 Valley View Lane
Signature Margret Cozad

Name _____
Address _____
Signature _____

Planning Commission Communication

Department: Community
Development

Case/Project No.: ZC-18-015

ZC-18-015

Council Action: 12/11/2018

Submitted by: Moises Monnroy,
Planner

Description

Public hearing on the request of the Council Bluffs Community Development Department to rezone property legally described as Lots 6-8 and the East 50 ft. of Lot 9, all in Block 5, Everett's Addition from I-1/Light Industrial District to R-2/Two Family Residential District.

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZC-18-015 Staff Report Including Attach A	Other	12/6/2018

Planning Commission Communication

<p>Department: Community Development</p> <p>CASE # ZC-18-015</p> <p>Applicant/Property Owner: City of Council Bluffs</p> <p>Property Owners: Jelken Real Estate Holdings LLC 987 2nd Avenue SW Lemars, IA 51031</p> <p>Lanny R. and Barbara L. Walker 112 McKenzie Court Council Bluffs, IA 51503</p>	<p>Ordinance No. _____</p>	<p>Planning Commission: 12/11/18</p>
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Subject/Title

Request: Public hearing on the request of the Council Bluffs Community Development Department to rezone property legally described as Lots 6-8 and the East 50 ft. of Lot 9, all in Block 5, Everett's Addition from I-1/Light Industrial District to R-2/Two Family Residential District.

Location: 2nd Avenue, between S 18th Street and S 19th Street.

Background

The Community Development Department is requesting to rezone the properties legally described as Lots 6-8 and the East 50 ft. of Lot 9, all in Block 5, Everett's Addition from I-1/Light Industrial District to R-2/Two Family Residential District. These properties are addressed as 1802, 1812 and 1820 2nd Avenue, respectively, with the exception of Lot 7, which is undeveloped.

Lot 7 is currently owned by the City of Council Bluffs and is classified as "transitional dispose" and "buildable" in the Inventory and Disposal Policy for Surplus City Property. This rezoning request would allow the City to market Lot 7 as a single family property for development. This request would also bring the non-conforming single-family dwellings on Lots 6, 8 and 9 into conformance with City zoning standards.

Land Use and Zoning

The following zoning districts and land uses surround the subject properties:

North: An industrial building that is zoned in the I-1/Light Industrial District.

South: Residential structures that are zoned in the R-3/Low Density Multifamily Residential District.

East: Residential structures that are zoned in the R-2/Two Family Residential District.

West: An office building that is zoned in the I-1/Light Industrial District.

The future land use plan of the Bluffs Tomorrow 2030 (Comprehensive Plan) designates the subject properties as Low Density Residential.

Public notices were mailed to all property owners within 200 feet of the request. No comments were received for the request.

All City Departments and local utilities were notified of the proposed rezoning. The following comments were received:

- The Permits and Inspections Division stated they have no comments on the request.
- The Council Bluffs Fire Department stated they have no comments on the request.
- Black Hills Energy stated they have no concerns regarding the rezoning request.
- MidAmerican Energy stated they have no objections to the request. They operate electric facilities on the properties and stated they need to retain them.
- Council Bluffs Water Works stated they have no comments regarding the rezoning request. Water service is available for the subject properties on 2nd Avenue.

The following attachments are included with the case staff report:

Attachment A: Location/zoning map

Discussion

1. The proposed rezoning is generally consistent with the Future Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan. The subject properties are designated as Low Density Residential, which would allow for single family and two family residential land uses.
2. Adequate utilities (e.g., water, sanitary sewer, electric, etc.) are available to accommodate the uses permitted in the R-2/Two Family Residential District.
3. The proposed rezoning would allow the City to market Lot 7 as a single family and/or two family property for development.
4. The subject properties are existing lots of record which do not comply with the minimum I-1/Light Industrial District lot dimensions (75 feet by 100 feet) or lot area (10,000 square feet). The lots do conform to the minimum R-2/Two Family Residential District lot dimensions (50 feet by 100 feet) and lot area (5,000 square feet). Therefore, the proposed rezoning would bring the lots into conformance with City zoning standards.
5. The proposed rezoning would also bring the non-conforming single-family dwellings on Lots 6, 8 and 9 into conformance with City zoning standards.

Recommendation

The Community Development Department recommends approval of the request to rezone property legally described as Lots 6-8 and the East 50 feet of Lot 9, all in Block 5, Everett’s Addition from I-1 Light Industrial District to R-2/Two Family Residential District.

Attachments

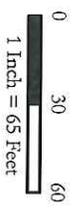
Attachment A: Location/zoning map

Prepared by: Moises Monrroy, Planner

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #ZC-18-015 LOCATION/ZONING MAP

Map Legend

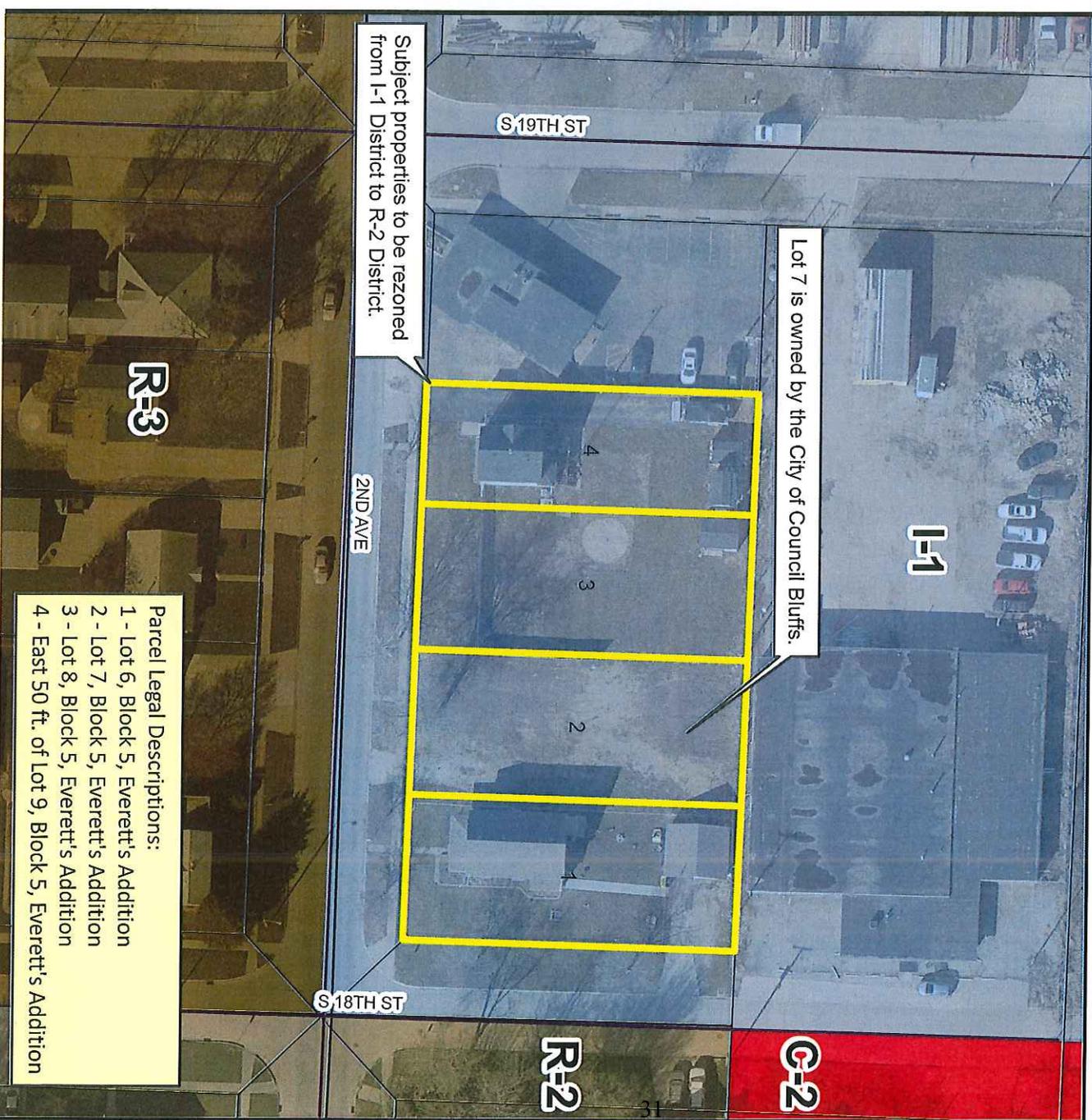
- Properties Proposed to be Rezoned
- Parcels



Last Amended: 11/19/18

**Council Bluffs Community
Development Department**
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4629

DISCLAIMER
This map is for informational purposes only and does not constitute a legal description. The City of Council Bluffs is not responsible for any errors or omissions on this map. The City of Council Bluffs is not responsible for any damages or losses resulting from the use of this map. The City of Council Bluffs is not responsible for any actions taken based on this map. The City of Council Bluffs is not responsible for any actions taken based on this map.



- Parcel Legal Descriptions:**
- 1 - Lot 6, Block 5, Everett's Addition
 - 2 - Lot 7, Block 5, Everett's Addition
 - 3 - Lot 8, Block 5, Everett's Addition
 - 4 - East 50 ft. of Lot 9, Block 5, Everett's Addition

Planning Commission Communication

Department: Community
Development

Case/Project No.: ZT-18-005

ZT-18-005

Council Action: 12/11/2018

Submitted by: Graham Jura,
Assistant City Attorney I

Description

Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.120, *Appeals*, in its entirety and replacing it with a new appeal procedure under the same code section and name.

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZT-18-005 Staff Report Including Attach A	Other	12/6/2018

City Planning Commission Communication

Department: City Legal Department		
Case #ZT-18-005	Ordinance No.	Planning Commission: 12/11/18
Applicant: Council Bluffs City Attorney's Office		

Subject/Title

CASE #ZT-18-005: Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.120, *Appeals*, in its entirety and replacing it with a new appeal procedure under the same code section and name.

Background

After discussion at an interdepartmental code enforcement meeting, it became evident to the Community Development Department that Chapter 15.02 *Administration and Enforcement* of the City's Municipal Code (Zoning Ordinance) lacks a comprehensive code enforcement section. Additionally, it was determined that the appeals section lacked specificity to adequately address the new enforcement section while also meeting the legal requirements of administrative appeals typical to municipal governments. Staff determined that it was best to have the Zoning Board of Adjustment remain as the governing body to hear such appeals.

In the process of drafting the proposed appeal section, Staff referenced the existing appeal process we currently have in place for decisions rendered by the building department, found in Section 13.01.204 of the Code. Procedurally, they are the same with respect to the process of appeal, but instead of calling for convening the board we plan to utilize the existing schedule of the board for efficiency purposes. One matter of significance worth pointing out here is that the zoning appeal process will contain the same "limitation of authority" for the board to render its decision. The purpose is to limit the appeal to review of the interpretation of the code made by City staff only. This limitation is designed to keep the appellant from turning an appeal into a variance request or other procedure specifically provided for elsewhere in the code. It also limits the ability of the board in this regard, also – it does not allow the board to waive any requirements of the code or otherwise add stipulations to any decision made by staff that are not in compliance with the code. The board's sole purpose is to determine, in effect, "did City staff interpret the code properly in making their decision." Lastly, it does provide for appeal to a court of competent jurisdiction as regularly provided by State of Iowa Administrative Procedure.

The proposed Section 15.02.120 *Appeals* is included as Attachment "A."

Comments

All City departments received a copy of the proposed text amendment. No comments were received from any departments.

Recommendation

The City Attorney's Office recommends approval of the following proposed text amendment:

- Amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.120, *Appeals*, and replacing it with the attached revised code.

Attachment(s)

Attachment A: Proposed text amendment §15.02.120 *Appeals*, of the Administration and Enforcement chapter of the City of Council Bluffs Municipal Code (Zoning Ordinance)

Prepared by: Graham C. Jura, Deputy City Attorney

15.02.120 Appeals.

~~A. Purpose~~

~~The zoning appeals process for review of decisions and determinations of the Zoning Administrator is intended to provide appropriate checks and balances on administrative authority.~~

~~B. Initiation~~

~~Applications for appeals may be filed by the owner of, or any person having a right of ownership in, any property in the City that is directly affected by a decision made under this Ordinance by the Zoning Administrator.~~

~~C. Authority~~

~~The Zoning Board of Adjustment shall take formal action on zoning appeals of Zoning Administrator decisions and determinations. Other duties, decisions and actions of the Zoning Administrator, which are not established by this Ordinance, cannot be appealed under this process.~~

~~D. Procedure~~

~~The Zoning Board of Adjustments shall hold a public hearing within a reasonable time and shall decide the appeal within a reasonable time. At the hearing of the appeal, any party may appear in person, or by agent or attorney. The Zoning Board of Adjustments may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination.~~

~~E. Limitations on Appeals~~

~~A decision may only be appealed if an application is filed within thirty (30) days of that decision.~~

15.02.120 Appeals.

Any person affected by a decision of the Community Development Director, or his or her designee, in the enforcement of this Ordinance may appeal said decision to the Board of Zoning Adjustment according to the procedures contained herein.

A. Scope of Appeals

An appeal may be taken to the Board of Zoning Adjustment by any person affected by any decision of the Community Development Director, or his or her designee, where it is alleged there is error in any order, requirement, decision, or determination made by any such administrative official in the enforcement of this Ordinance.

B. Filing of Appeals

The appeal shall be initiated by filing with the Community Development Department a written notice of appeal, the grounds for the appeal, and an administrative filing fee as found in the schedule of fees, within thirty (30) days of the decision rendered by the Community Development Director, or his or her designee. The Community Development Director, or his or her designee, shall promptly transmit to the Board of Zoning Adjustment all of the documents related to the decision or action being questioned.

C. Scheduling Appeal Hearing and Notice

A timely filed appeal shall be scheduled for hearing on the next agenda of the monthly meeting of the Board of Zoning Adjustment, unless such hearing would be less than seven (7) days after the timely filing of the appeal, in which case the appeal shall be scheduled for hearing on the agenda of the next Board of Zoning Adjustment meeting. Once scheduled, notice of the time and place of the hearing shall be given to each appellant by mailing a copy of such notice, postage prepaid, addressed to the appellant at his or her address as shown on the appeal.

D. Procedure for Appeal Hearing

Hearings shall be conducted in an informal manner; formal rules of evidence shall not apply. At the hearing, all parties shall have the opportunity to present evidence and cross-examine witnesses. The Board of Zoning Adjustment may establish additional written rules of procedure for the conduct of hearings and their business. The Board of Zoning Adjustment may continue the hearing to a specified time and date if it determines that additional evidence is necessary to decide the issue.

E. Conclusion of Hearing

At the conclusion of the hearing, or within ten (10) days after the hearing, the Board of Zoning Adjustment shall make written findings and either sustain, modify, or reverse the order of the Community Development Director, or his or her designee. The written findings and decision shall be mailed to the appellant, postage prepaid, at the appellant's address as shown on the appeal. The secretary of the Board of Zoning Adjustment shall maintain the written findings and decision as a public record.

F. Limitation of Authority

The Board of Zoning Adjustment shall have no authority to waive any mandatory requirements of the zoning code, or any other municipal code, as part of this appeal. The Board of Zoning Adjustment shall have the authority to hear and decide appeals of order, decision or determinations made by the Community Development Director, or his or her designee, relative to the application and interpretations of the zoning code only.

G. Review by Court

The City, or any person or persons, who have appealed to the Board of Zoning Adjustment and are aggrieved by its decision may appeal the decision to a court of competent jurisdiction pursuant to the provisions of Iowa law.

Planning Commission Communication

Department: Community
Development

Case/Project No.: ZT-18-006

ZT-18-006

Council Action: 12/11/2018

Submitted by: Haley Weber, Zoning
Enforcement Officer

Description

Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.130, *Enforcement*, and replacing it with Section 15.02.130, *Violation and Penalty*.

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZT-18-006 Staff Report Including Attach A	Other	12/6/2018

City Planning Commission Communication

Department: Community Development		
Case #ZT-18-006	Ordinance No.	Planning Commission: 12/11/18
Applicant: Council Bluffs Community Development Department		

Subject/Title

CASE #ZT-18-006: Public hearing on the request of the Council Bluffs Community Development Department to amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.130, *Enforcement*, and replacing it with Section 15.02.130, *Violation and Penalty*

Background

After discussion at an interdepartmental code enforcement meeting, it became evident to the Community Development Department that Chapter 15.02 *Administration and Enforcement* of the City's Municipal Code (Zoning Ordinance) lacks a comprehensive code enforcement section. Specifically, the section lacks a consistent basis off of which to assign remediation times for zoning code violations and the specific processes and procedures for zoning enforcement. The proposed Section 15.02.130, *Violation and Penalty* includes set remediation timeframes for zoning code violations as well as establishes new, more in-depth standards for zoning enforcement action in the City of Council Bluffs.

In the process of drafting the proposed enforcement section, the Community Development Department conducted research on a number of Iowa cities' municipal codes including: Des Moines, West Des Moines, Davenport, Dubuque, Ames, Iowa City, and Cedar Rapids. The proposed Section 15.02.130 *Violation and Penalty* is primarily modeled after the City of Cedar Rapids' Municipal Code Section 32.08.090 *Violation and Penalty*.

The proposed Section 15.02.130 *Violation and Penalty* is included as Attachment "A." The Council Bluffs Community Development Department proposes repealing Section 15.02.130, *Enforcement* and replacing it with Section 15.02.130, *Violation and Penalty* for the following reasons:

- The proposed Section 15.02.130 *Violation and Penalty* states in more thorough and direct terms the notification process for each type of zoning code violation, the procedure to follow for multiple and repeat violations, and the remedies and powers of the Community Development Department to enforce the Ordinance.
- The specifically outlined notification process allows for greater consistency and fairness in zoning code enforcement cases as every violation of the same type shall receive the same remediation timeframe. In the event that a zoning enforcement case would go to court, these set timeframes would ensure that the deadlines given are less likely to be considered arbitrary or capricious.
- The outlining of the zoning enforcement process in the City's municipal code provides greater transparency and knowledge to the public regarding the Community Development Department's zoning code enforcement practices.

In summary, the proposed amendment includes the following:

Notification Process

The proposed Section 15.02.130 *Violation and Penalty* outlines the notification process that shall be taken in every zoning code enforcement case with an identified zoning code violation. When a violation is confirmed, the following process shall be taken to notify the property owner and/or other responsible party of said violation:

- Step 1: The property owner and/or other responsible party shall be sent Letter #1: 'Notice of Violation #1: Voluntary Compliance Request'. This letter emphasizes voluntary compliance and contains the applicable code section(s) in violation, photographic evidence of the violation and a deadline for remediation.

- Step 2: If the violation has not been remedied by the deadline given in Letter #1, the property owner and/or other responsible party, shall be sent Letter #2: 'Notice of Violation #2: Final Request'. This letter reiterates the sending of the first notice of violation and contains the applicable code section(s), photographic evidence of the violation, the civil penalties associated with a municipal infraction and a deadline for remediation before receiving a citation.
- Step 3: If the violation has not been remedied by the deadline given in Letter #2, a citation shall be served to the property owner on the next business day following the expiration date in Letter 2 in accordance with the methods listed in Section 1.95.030 *Civil Citations* of Council Bluffs Municipal Code. A first offense violation results in a \$750.00 fine plus the additional \$85.00 court costs. A second offense violation results in a \$1,000.00 fine plus the additional \$85.00 court costs. A letter shall be sent to any other responsible party informing them of the issued citation.

Violation Tiers

The proposed Section 15.02.130 *Violation and Penalty* specifies four (4) tiers of zoning code violations. Each type of zoning code violation falls into a tier based on the intensity of the violation and the amount of time needed for remediation. The timeframes given in Notice of Violation Letters #1 and #2 are based on the following violation tiers. *Table 1: Violation Tiers* lists the violations that fall under each of the four tiers and *Table 2: Timeframes to Remedy Violations* outlines the corresponding notification process:

Table 1: Violation Tiers

Tier 1 Violation	Tier 2 Violation	Tier 3 Violation	Tier 4 Violation
<ul style="list-style-type: none"> • Temporary Sign • Nonpermanent Outdoor Lighting • Parking where conforming parking space is available on site • Storage Container • Occupying a recreational vehicle 	<ul style="list-style-type: none"> • Permanent Sign • Permanent Outdoor Lighting • Fence • Parking where conforming parking space is not available on site • Landscaping 	<ul style="list-style-type: none"> • Home Occupation • Illegal Structure • Illegal Use • Building material /architectural design when located within a Corridor Design Overlay or on a property with an approved development plan 	<ul style="list-style-type: none"> • Any violation that poses to be an emergency or threat to public health and safety

Table 2: Timeframes to Remedy Violations

All notice of violation letters shall be sent to the property owner and/or other responsible party for all violations. The property owner shall be the party subject to citation if the violation is not remedied within the amount of time as set forth in this table.

Notice Type:	Tier 1 Violation	Tier 2 Violation	Tier 3 Violation	Tier 4 Violation
Letter 1: Voluntary Compliance Request/Notice	Ten (10) business days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	Thirty (30) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	Sixty (60) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	In situations where a violation is considered to be an emergency or is a threat to public health and safety, enforcement action shall be taken immediately by the Community Development Director or his/her designee.
Letter 2: Second Notice of Violation	Five (5) business days from the date of the letter to remedy the violation before	Fifteen (15) days from the date of the letter to remedy the violation before	Thirty (30) days from the date of the letter to remedy the violation before	

	receiving Letter 3: Citation for Municipal Infractions	receiving Letter 3: Citation for Municipal Infractions	receiving Letter 3: Citation for Municipal Infractions	
Letter 3: Citation for Municipal Infractions	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	

Multiple and Repeat Violations

Additionally, the proposed section states the procedure for multiple and repeat violations. Multiple violations that occur on the same property shall be reviewed and enforced separately in accordance with Tables 1 and 2. Violations of the same type that occur on a property within a twenty-four (24) month period where the owner of the property remains the same shall be considered repeat violations and notified following the schedule designated in Table 2.

Repeat Violations Example: ‘Property Owner A’ has remedied a temporary sign violation within the specified timeframe after receiving Notice of Violations #1 and #2. Two months later, the same property owner places an illegal temporary sign on the property again. This would be considered a repeat violation within a twenty-four (24) month period. At this time, ‘Property Owner A’ would be cited for the illegal sign violation.

Remedies and Powers

The proposed section lists all the remedies and powers available to the Community Development Department to enforce the Ordinance. Those remedies and powers are as follows: Deny/Withhold Permits; Permits Approved with Conditions; Citation for Municipal Infractions; Revoke of Approvals or Permits; Revoke Licenses; Stop Work Order; Injunctive Relief; Abatement; Administrative Extension of Time; or Other action permitted by Iowa law.

Administrative Extension

The proposed section states that an administrative extension of time may be granted to the property owner and/or other responsible party by the Community Development Director for remedying violations that require paving, landscaping, or removal or altering of illegal structures where seasonal weather conditions make remedying impractical. If the property owner and/or other responsible party are actively pursuing the remedy of an identified zoning violation, a stay of all enforcement action may be granted by the Community Development Director or his/her designee. A stay of action shall not exceed 90 days. An administrative extension of time or stay of enforcement action shall not be granted for a Tier 4 violation as these violations are emergency situations that require immediate action.

Comments

All City departments received a copy of the proposed text amendment. The following comments were received regarding proposed Section 15.02.130, *Violation and Penalty*:

- The Council Bluffs Fire Department stated that they have no comments.
- The Council Bluffs Public Works Department stated that the ordering of the four tiers of violation was confusing as “tier one has a short time line (higher urgency to resolve), tier 2 has a longer (less urgent) timeline, tier 3 has the longest timeline, but tier 4 is an emergency that needs immediate resolution.”

Recommendation

The Community Development Department recommends approval of the following proposed text amendment:

- Amend Title 15: Zoning of the Municipal Code (Zoning Ordinance) by repealing Section 15.02.130, *Enforcement* and replacing it with Section 15.02.130, *Violation and Penalty*

Attachment(s)

Attachment A: Proposed text amendment §15.02.130 *Enforcement*, of the Administration and Enforcement chapter of the City of Council Bluffs Municipal Code (Zoning Ordinance)

Prepared by: Haley P. Weber, Zoning Enforcement Officer

ATTACHMENT A

15.02.130 Enforcement

- ~~A. Enforcement. This ordinance shall be enforced by the zoning administrator. The zoning administrator may secure the assistance of the city attorney to seek an injunction, abatement, municipal citations or other appropriate actions to enjoin, abate or stop any violation of this ordinance. At times, the aid of the police department may be sought to enforce this ordinance. The property owner charged with the violation may be held responsible for any legal expenses incurred by the city.~~
- ~~B. Penalties. Any person, firm or corporation that violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, upon conviction, shall be fined for each offense. Each day that a violation continues shall constitute a separate offense for the purpose of the penalties and remedies available to the city. The accumulation of penalties for violations, but not the obligation for payment for violations already committed, shall cease upon correction of the violation.~~
- ~~C. Fines. Fines for violation of this ordinance shall be as set forth in the prevailing schedule of fees as most recently adopted by the city council.~~

~~(Ord. No. 6012, § 2, 10-27-2008)~~

15.02.130 Violation and Penalty

The City may take any or all of the actions listed in this Section in response to any Violation of this Ordinance. The remedies and penalties provided for violations of this Ordinance shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

A. Enforcement

This ordinance shall be enforced by the Community Development Director or his or her designee. The Community Development Director or his or her designee may secure the assistance of the city attorney to seek an injunction, abatement, municipal citations or other appropriate action to enjoin, abate, or stop any violation of this ordinance. At times, the aid of the police department may be sought to enforce this ordinance. The property owner charged with the violation may be held responsible for any legal expenses incurred by the city.

B. Fines

Fines for violation of this Ordinance shall be set forth as per the adopted schedule of civil penalties stated in section 1.95 Municipal Infraction Citation Process of the Council Bluffs Municipal Code.

C. Notification

The Community Development Director or his/her designee shall, upon determination of any violation of this Ordinance, notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; and specifically shall order the discontinuance of any illegal use of land, buildings, or structures, order removal of illegal buildings, structures, additions, or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of its provisions, and in particular, shall, when appropriate, recommend to the City Attorney the institution of legal or equitable actions that may be required for the enforcement of this Ordinance. The City shall use the following letters as forms of written notification:

1. Letter #1: Voluntary Compliance Request Letter

The City shall issue a voluntary compliance request letter to the property owner of record and any other responsible party citing the violation of this Ordinance. This letter will be mailed to the property's tax address as well as the physical street address. Each violation falls into one (1) of four (4) tiers. Table 1: Violation-Tier Categories outlines the type of violations and the corresponding tier. The Voluntary Compliance Request Letter shall state that the violation be removed within the time set forth in Table 2: Timeframes to Remedy Violations. This letter shall serve as the first notice of violation.

2. Letter #2: Second Notice of Violation

The City shall issue a second notice of violation letter to the property owner of record and any other responsible party citing the violation of this Ordinance if the violation was not remedied within the timeframe specified in Letter #1: Voluntary Compliance Request Letter. This letter will be mailed to the property's tax address as well as the physical street address. The letter shall reiterate the sending of the first notice of violation and that the violation must be removed within the time set forth in Table 2.

3. Letter #3: Citation for Municipal Infractions

The City shall cite the property for municipal infractions if the violation was not remedied within the time frame specified in Letter #2: Notice of Violation. The fines for municipal infractions shall be as set forth in Section 1.95.020 Violations, penalties and alternative relief of Council Bluffs Municipal Code. The citation shall be served in accordance with the methods listed in Section 1.95.030 Civil Citations of Council Bluffs Municipal Code.

The Community Development Department has specified four (4) tiers of zoning code violations. Each type of zoning code violation falls into a tier based on the intensity of the violation and amount of time needed for remediation. The following table shows the violations that fall under each of the four tiers:

Table 1: Violation Tiers

Tier 1 Violation	Tier 2 Violation	Tier 3 Violation	Tier 4 Violation
<ul style="list-style-type: none"> • Temporary Sign • Nonpermanent Outdoor Lighting • Parking where conforming parking space is available on site • Storage Container • Occupying a recreational vehicle 	<ul style="list-style-type: none"> • Permanent Sign • Permanent Outdoor Lighting • Fence • Parking where conforming parking space is not available on site • Landscaping 	<ul style="list-style-type: none"> • Home Occupation • Illegal Structure • Illegal Use • Building material /architectural design when located within a Corridor Design Overlay or on a property with an approved development plan 	<ul style="list-style-type: none"> • Any violation that poses to be an emergency or threat to public health and safety

Table 2: Timeframes to Remedy Violations

All notice of violation letters shall be sent to the property owner and/or other responsible party for all violations. The property owner shall be the party subject to citation if the violation is not remedied within the amount of time as set forth in this table.				
Notice Type:	Tier 1 Violation	Tier 2 Violation	Tier 3 Violation	Tier 4 Violation
Letter 1: Voluntary Compliance Request/Notice	Ten (10) business days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	Thirty (30) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	Sixty (60) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation	In situations where a violation is considered to be an emergency or is a threat to public health and safety, enforcement action shall be taken immediately by the Community Development Director or his/her designee.
Letter 2: Second Notice of Violation	Five (5) business days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions	Fifteen (15) days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions	Thirty (30) days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions	
Letter 3: Citation for Municipal Infractions	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.	

D. Multiple Violations

Multiple violations that occur on the same property shall be reviewed and enforced separately in accordance with Tables 1 and 2.

E. Repeat Violations

Violations of the same type that occur on a property within a twenty-four (24) month period where the owner of the property remains the same shall be considered repeat violations. The property owner or other responsible party shall be notified of the violation following the schedule designated in Table 2.

F. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the City, in addition to other remedies, may institute any proper action or proceeding, including an action to enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion maintenance, or use, in the name of the City of Council Bluffs, to restrain, correct, or abate such violations, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business or use in or about said premises. More specifically, the Community Development Department shall have the following remedies and powers to enforce this Ordinance:

1. Deny/Withhold Permits

The City may deny and withhold permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements until the alleged violation related to such property use, or development is corrected. The provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

2. Permits Approved with Conditions

Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that the violation be corrected prior to occupancy or final approval.

3. Citation for Municipal Infractions

The City may cite the property for a municipal infractions as set forth in Section 1.95 Municipal Infraction Citation Process of the Council Bluffs Municipal Code.

4. Revoke of Approvals or Permits

Any permit issued by administrative approval is subject to revocation. Any permit issued by a Decision-Making Body is subject to revocation after notice and a public hearing by said Decision-Making Body. A permit is subject to revocation, after the responsible party has been provided an opportunity to remedy the violation within the time set forth in Table 2, when it is determined that either:

- i. There is a material departure from the approved plans, specifications, or conditions of approval;
- ii. There is a violation of any provision of this Ordinance;
- iii. The development approval or permit was obtained by false representation;
- iv. The development approval or permit was issued in error

- b. Written notice of the revocation shall be served upon the property owner of record, the owner's agent, the applicant, or other person to whom the permit was issued or such notice may be posted in a prominent location at the place of the violation. No work or construction shall proceed after the service of the revocation notice.

5. Revoke Licenses

The City may revoke applicable licenses issued pursuant to City Code. Revocation of licenses shall be processed according to applicable procedures adopted for this purpose by the applicable City department or entity.

6. Stop Work Order

With or without revoking permits, the Community Development Director or his or her designee may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Ordinance or a provision of a permit or other form of authorization issued pursuant to this Ordinance. The stop work order shall specify the Ordinance provisions being violated. After any such order has been served, no work shall process on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with this order. The stop work order may be issued at the same time as a notice of initial violation or subsequent to such notice.

7. Injunctive Relief

The City may initiate injunction proceedings or other appropriate legal action in any court of competent jurisdiction against any person who fails to comply with any provision of this Ordinance or any requirement or condition imposed pursuant to this Ordinance. In any court proceeding in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Ordinance is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the Ordinance violation unless the violation is enjoined; and that there is no plan and adequate remedy at law for the subject Ordinance violation.

8. Abatement

The City may seek a court order in the nature of mandamus, abatement, injunction or other action to abate or remove a violation or to otherwise restore the premises to the condition that existed before the violation.

9. Administrative Extension of Time

- a. An administrative extension of time may be granted to the property owner and/or other responsible party by the Community Development Director at his/her discretion for remedying violations that require paving, landscaping, or the removal or altering of illegal structures where seasonal weather conditions make remedying impractical.
- b. If the property owner and/or other responsible party are actively pursuing the remedy of an identified zoning violation, a stay of all enforcement action may be granted by the Community Development Director or his/her designee. A stay of action shall not exceed 90 days.
- c. An administrative extension of time or stay of enforcement action shall not be granted for a Tier 4 violation.

10. Other

The City may take any other action permitted by Iowa law.