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**Date** September 13, 2021

**RESOLUTION SETTING HEARING ON REQUEST FROM MCKEE AUTO CENTER, INC.  
TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE  
PROPERTY LOCATED AT 4131 AND 4141 EAST 14<sup>TH</sup> STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 19, 2021, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from McKee Auto Center, Inc. (Owner), represented by Anthony McKee (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 4131 and 4141 East 14<sup>th</sup> Street (“Property”) from Community Mixed Use to Industrial to allow rezoning to Limited ‘I1’ Industrial District, to remove the prohibitions on Vehicle Sales and Trucking and Transportation Terminal uses, and to allow Major Vehicle Maintenance/Repair uses; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on August 19, 2021, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from McKee Auto Center, Inc. (Owner), represented by Anthony McKee (officer), to rezone the Property from ‘MX3-V’ Mixed Use District and ‘I1-V’ Industrial District to Limited ‘I1’ Industrial District for the above-stated purpose, subject to the following condition:

1. That any reuse, construction, or site improvements upon the properties shall be in accordance with a Site Plan that complies with all current regulations, including those pertaining to landscaping and screening; and

WHEREAS, the Property is legally described as follows:

A PARCEL OF LAND IN THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 24, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA DESCRIBED AS FOLLOWS: THAT PART OF THE SOUTH 126.0 FEET OF THE NORTH 331.0 FEET OF THE EAST 249.2 FEET OF THE WEST 282.2 FEET OF THE EAST 115.0 FEET OF THE WEST 148.0 FEET OF THE SOUTH 114.0 FEET OF THE NORTH 445.0 FEET OF SAID NW ¼ OF THE SW ¼ OF SECTION 24, AS SHOWN ON ACQUISITION PLAT, RECORDED IN BOOK 7510 ON PAGE 438, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE W ¼ CORNER OF SAID SECTION 24; THENCE S 0°00’00” E, 205.08 FEET OF THE WEST LINE OF THE SW ¼ OF SAID SECTION 24; THENCE N 89°30’05” E, 51.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°30’05” E, 231.35 FEET; THENCE S 00°07’58” W 125.93 FEET; THENCE S 89°20’43” W 134.15 FEET; THENCE S 00°00’00” E, 113.88 FEET; THENCE 89°31’34” W, 101.43 FEET; THENCE N 01°55’32” E, 133.60 FEET; THENCE N 00°00’00” W; 106.63 FEET TO THE POINT OF BEGINNING; AND BEGINNING AT A POINT 33 FEET EAST AND 25 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST ¼ OF SECTION 24, TOWNSHIP 79 NORTH, RANGE 24, WEST OF THE 5TH P.M.; THENCE EAST ALONG THE SOUTH



**Roll Call Number**

**Agenda Item Number**

15

**Date** September 13, 2021

LINE OF AURORA AVENUE, 249.2 FEET; THENCE SOUTH 180 FEET PARALLEL TO THE EAST LINE OF EAST 14TH STREET; THENCE WEST 249.2 FEET PARALLEL TO THE SOUTH LINE OF AURORA AVENUE; THENCE NORTH 180 FEET TO THE POINT OF BEGINNING, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, SUBJECT TO ROAD EASEMENT.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed amendment to the comprehensive plan future land use designation and proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposals, shall be held at 5:00 p.m. on October 4, 2021, at the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED BY \_\_\_\_\_ TO ADOPT.

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Judy K. Parks-Kruse  
 Assistant City Attorney

(ZONG-2021-000019)  
 (ZONG-2021-000003)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City, hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

August 25, 2021

Communication from the City Plan and Zoning Commission advising that at their August 19, 2021 meeting, the following action was taken regarding a request from McKee Auto Center, Inc. (owner), represented by Anthony McKee (officer) to rezone property located at 4131 and 4141 East 14<sup>th</sup> Street from “MX3-V” Mixed Use District and “I1-V” Industrial District to “I1” Industrial District to remove the prohibitions on Vehicle Sales and Trucking and Transportation Terminal uses, and to allow Major Vehicle Maintenance/Repair uses.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar				X
Lisa Howard	X			
Carolyn Jenison				X
William Page				X
Rocky Sposato				X
Steve Wallace				X
Greg Wattier				X
Emily Webb	X			

**APPROVAL** of Part A) The requested rezoning be found in conformance with the existing PlanDSM future land use designation of Industrial and Community Mixed Use.

Part B) Approval of the requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for 4131 East 14<sup>th</sup> Street from Community Mixed Use to Industrial.

Part C) Approval of the requested rezoning, subject to the condition that any reuse, construction, or site improvements upon the properties shall be in accordance with a Site Plan that complies with all current regulations, including those pertaining to landscaping and screening. (ZONG-2021-000003)

Written Responses

0 in Favor  
0 in opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

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

Part B) Staff recommends approval of the requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for 4131 East 14<sup>th</sup> Street from Community Mixed Use to Industrial.

Part C) Staff recommends approval of the requested rezonings, subject to the condition that any reuse, construction, or site improvements upon the properties shall be in accordance with a Site Plan that complies with all current regulations, including those pertaining to landscaping and screening.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

- 1. Purpose of Request:** The applicant is proposing to use the site for a vehicle display lot use with an autobody component. The rezoning would eliminate the “-V” zoning designation that is currently applied to both of their parcels that comprise the site. This designation prohibits use of the property for Vehicle Sales and Trucking and Transportation Terminal uses.

The building at 4141 East 14<sup>th</sup> Street has known environmental issues. The applicant has indicated that they are working with an environmental engineer to clean the site according to the requirements of the City, DNR, and EPA. The applicant intends to demolish the dilapidated building.

Any future construction or site improvements would be subject to compliance with a site plan.

- 2. Size of Site:** The property at 4141 East 14<sup>th</sup> Street measures 40,078 square feet (0.920 acres) and the property at 4131 East 14<sup>th</sup> Street measures 40,509 square feet (0.930 acres) for a combined 80,587 square feet (1.85 acres).
- 3. Existing Zoning (site):** “MX3-V” Mixed Use District and “I1-V” Industrial District.
- 4. Existing Land Use (site):** The subject properties to be rezoned consist of two parcels including 4141 East 14<sup>th</sup> Street and 4131 East 14<sup>th</sup> Street. The property at 4141 East

14<sup>th</sup> Street is zoned "I1-V" and contains a 5,708 square-foot, 1-story warehouse that the applicant intends to demolish, and a paved surface parking lot. The property at 4131 East 14<sup>th</sup> Street is zoned "MX3-V" and contains a 5,708 square-foot, 1-story auto service building, and a paved surface parking lot.

**5. Adjacent Land Use and Zoning:**

**North** – "HI" Heavy Industrial (Polk County); Uses include semi-truck repair and sales.

**South** – "MX3-V"; Uses are industrial including auto service.

**East** – "I1" & "MX3-V"; Uses are industrial including auto repair and auto service.

**West** – "I1-V"; Use is office and warehousing.

**6. General Neighborhood/Area Land Uses:** The subject properties are located on the southeast corner of the East 14<sup>th</sup> Street and East Aurora Avenue intersection. The area contains a mix of commercial, industrial, and residential uses.

**7. Applicable Recognized Neighborhood(s):** The subject property is located within the Highland Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 19, 2021 (for the August 5, 2021 meeting) and by mailing of the Final Agenda on July 30, 2021 (for the August 5, 2021 meeting) and August 13, 2021 (for the August 19, 2021 meeting). Additionally, separate notifications of the hearing for this specific item were mailed on July 16, 2021 (20 days prior to public hearing for the August 5, 2021 meeting), July 26, 2021 (10 days prior to the public hearing for the August 5, 2021 meeting) and August 9, 2021 (10 days prior to the public hearing for the August 19, 2021 meeting) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Highland Park Neighborhood Association mailings were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313.

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

**8. Relevant Zoning History:** On January 18, 2007, the Plan and Zoning Commission conditionally approved a site plan allowing a vehicle display and sales business at 4131 East 14<sup>th</sup> Street.

The applicant made a previous request for "M-1" zoning on the property, which was withdrawn before consideration at the April 3, 2008, Plan and Zoning Commission meeting.

On April 23, 2012, by Roll Call No. 12-0641, the City Council denied a subsequent request to rezone the site to "M-1" District based upon the applicant's and tenant's inability to commit to bringing the chrome plating operation into compliance with Building and Fire Codes.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial and Community Mixed Use.

**10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

**1. PlanDSM Creating Our Tomorrow:** The subject properties are designated as "Industrial" and "Community Mixed Use" on the Future Land Use Map. PlanDSM describes these designation as follows:

**INDUSTRIAL (4141 East 14<sup>th</sup> Street)**

*Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated.*

**COMMUNITY MIXED USE (4131 East 14<sup>th</sup> Street)**

*Small- to medium-scale mixed use development, located on high-capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.*

The applicant is proposing to rezone 4141 East 14<sup>th</sup> Street from "I1-V" to "I1" and 4131 East 14<sup>th</sup> Street from "MX3-V" to "I1". The Zoning Ordinance states that "MX3" is intended for mixed-use nodes and corridors within the city, where residents and visitors may access multiple uses by walking and automobile. This district accommodates higher intensity commercial uses at a smaller scale. "I1" is intended for general industrial uses, warehousing, and transportation terminals.

Section 134-6.3.12 of the Municipal Ordinance states, "*There exist within the city of Des Moines segments of commercial corridors wherein the concentration of vehicle sales and rental display lots has reached a level that has discouraged investment and reinvestment in other uses in the area. As retail and service businesses close and property values within the affected corridors decline or fail to rise with the overall market, the most profitable use of the vacant properties is often for additional vehicle sales and rental display lots.*"

*Property should not be rezoned to remove the "-V" extension to allow vehicle sales and rental display lots when the city council has made a determination that at least one of the following conditions exist within the corridor along which the property is located:*

1. *The corridor or portion thereof to be rezoned contains a high concentration of vehicle sales and rental display lots and the concentration of vehicle sales and rental display lots has reached a level where it is discouraging, or with any increase is likely to discourage, further investment and reinvestment in other uses along the corridor.*
2. *The use of the required front yard for vehicle sales and rental display is contrary to the predominant character of the corridor or portion thereof to be rezoned and would detrimentally impact that character and property values along the corridor.*

*The city council, after review and recommendation by the plan and zoning commission, may consider removal of the "-V" extension designation from a specific parcel, if the council finds that the above conditions no longer exist or that the proposed use demonstrates provision of exceptional setbacks, landscaping and other site amenities that mitigate the visual impact of the vehicle sales and rental display lot from the corridor."*

Staff believes that it would be appropriate amend the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for 4131 East 14<sup>th</sup> Street from Community Mixed Use to Industrial. Staff also believes that, in this instance, it would be appropriate to eliminate the "-V" designation since the property is surrounded by properties used for Vehicle Sales and Trucking and Transportation Terminal uses. The proposed use would not "discourage further investment and reinvestment in other uses along the corridor". It is also not "contrary to the predominant character of the corridor or portion thereof to be rezoned and would detrimentally impact that character and property values along the corridor".

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review.
3. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.

## **SUMMARY OF DISCUSSION**

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

## **COMMISSION ACTION:**

Jann Freed made a motion for:

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

Part B) Approval of the requested amendment to the PlanDSM Creating Our Tomorrow Plan to revise the future land use classification for 4131 East 14<sup>th</sup> Street from Community Mixed Use to Industrial.

Part C) Approval of the requested rezoning, subject to the condition that any reuse, construction, or site improvements upon the properties shall be in accordance with a Site Plan that complies with all current regulations, including those pertaining to landscaping and screening.

Motion passed: 9-0

Respectfully submitted,

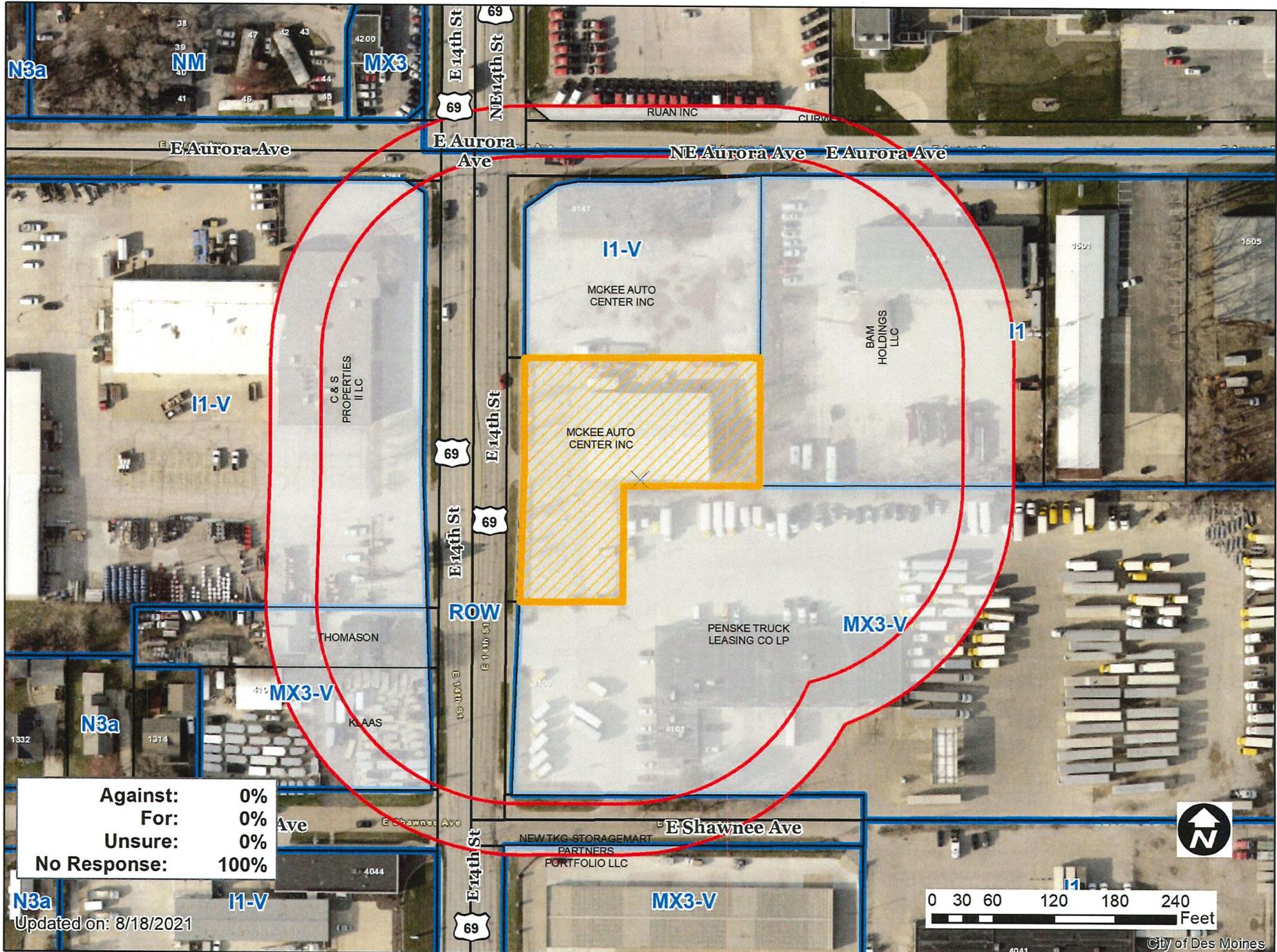


Bert Drost, AICP  
Deputy Planning & Urban Design Administrator

BAD:tjh

# Mckee Auto Center, Incorporated, 4131 East 14th Street

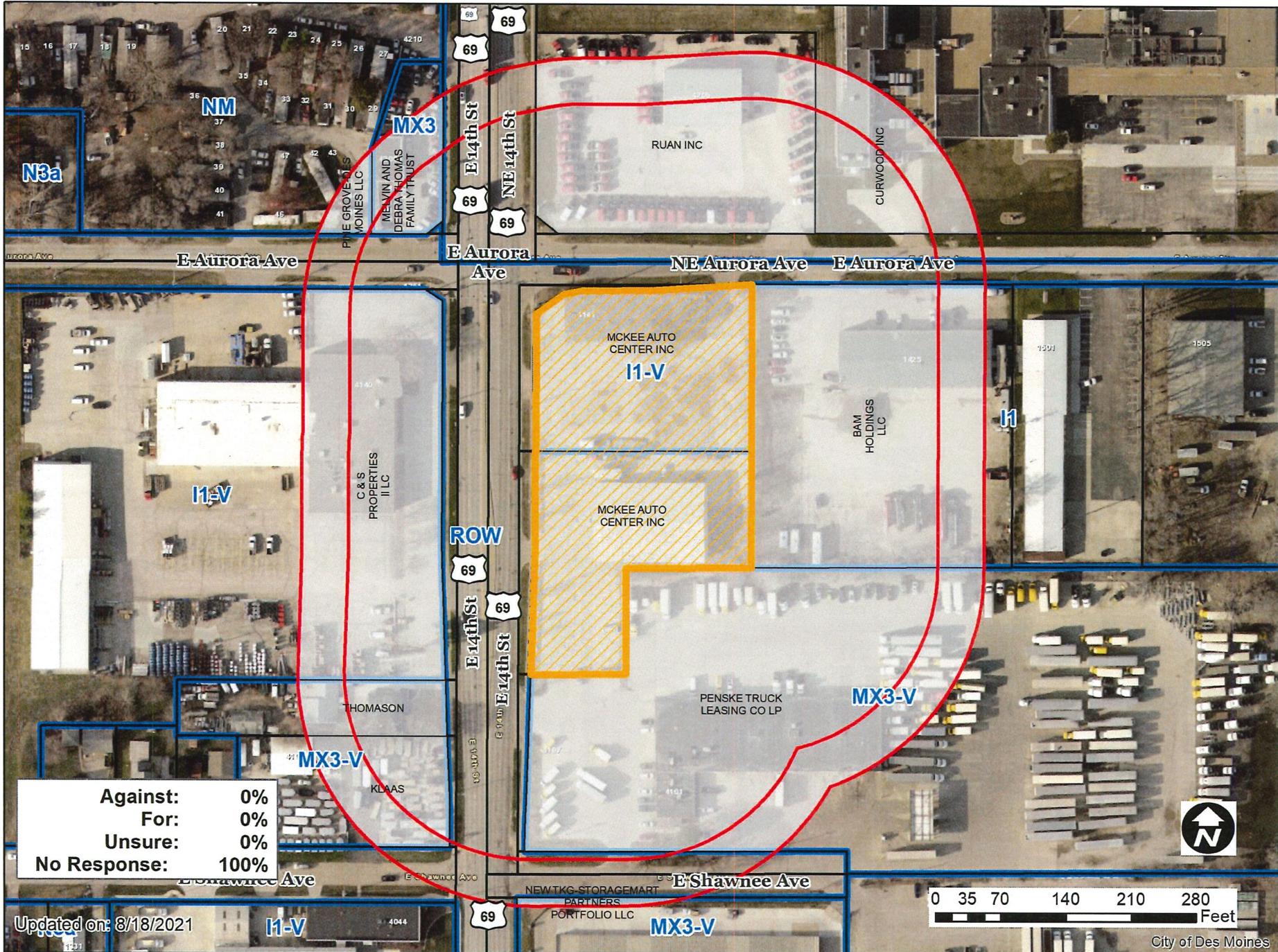
ZONG-2021-000019



1 inch = 125 feet

# McKee Auto Center, Inc., 4131 and 4141 East 14th Street

ZONG-2021-000003



Updated on: 8/18/2021

1 inch = 137 feet