



Date November 1, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM GREATER DES MOINES BOTANICAL GARDEN TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED IN THE VICINITY OF 909 ROBERT D. RAY DRIVE

WHEREAS, on October 18, 2021, by Roll Call No. 21-1555, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 7, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Greater Des Moines Botanical Garden (lessee) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property located in the vicinity of 909 Robert D. Ray Drive (“Property”) from Park/Open Space to Public/Semi-Public, to allow rezoning and expansion of the Greater Des Moines Botanical Garden, including development of formal display gardens, an amphitheater, and construction of a café building on the Property; and

WHEREAS, on October 18, 2021, by Roll Call No. 21-1555, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on October 7, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Greater Des Moines Botanical Garden (lessee) to rezone the Property from P1 Public, Civic, and Institutional District to P2 Public, Civic, and Institutional District for the above-stated purposes; and

WHEREAS, on October 18, 2021, by Roll Call No. 21-1555, it was duly resolved by the City Council that the request to amend the land use designation and to rezone the Property be set down for hearing on November 1, 2021, at 5:00 p.m., at the City Council Chambers; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed land use amendment and rezoning; and

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property in the vicinity of 909 Robert D. Ray Drive, legally described as:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF EAST UNIVERSITY AVENUE AND THE WEST RIGHT-OF-WAY LINE OF EAST 6TH STREET, BOTH RIGHTS-OF-WAY AS PRESENTLY ESTABLISHED; THENCE SOUTH ON THE SAID WEST RIGHT-OF-WAY LINE TO THE INTERSECTON WITH THE NORTH LINE OF LOT 5 OF RIVER HILLS PLAT FOUR, AN OFFICIAL PLAT; THENCE WEST ON THE SAID NORTH LINE TO THE NORTHWEST CORNER OF SAID LOT 5, ALSO BEING ON THE EAST LINE OF LOT 6 OF SAID RIVER HILLS PLAT FOUR; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 6 TO A POINT WHICH IS 72.54 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 6, ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 1-235 AS SHOWN IN BOOK 9703 PAGE 595 OF THE CONVEYANCE QUIT CLAIM DEED IN THE POLK COUNTY RECORDERS OFFICE; THENCE SOUTHWESTERLY 91.06 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID 1-235; THENCE WESTERLY ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID 1-235 TO THE WESTERLY CURB LINE OF VACATED ROBERT D. RAY DRIVE, AS PRESENTLY ESTABLISHED; THENCE NORTHEASTERLY ALONG THE WESTERLY CURB LINE OF SAID VACATED ROBERT D. RAY DRIVE A DISTANCE OF 175 FEET; THENCE WESTERLY, PERPENDICULAR TO SAID WESTERLY CURB LINE, TO THE EASTERLY BANK OF THE DES MOINES RIVER; THENCE NORTHEASTERLY ALONG SAID EASTERLY BANK TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE; THENCE EAST ON THE SOUTH RIGHT-OF-WAY LINE OF



Roll Call Number

Agenda Item Number

46

Date November 1, 2021

SAID EAST UNIVERSITY AVENUE TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from P1 Public, Civic, and Institutional District to P2 Public, Civic, and Institutional District, to allow the expansion of the Greater Des Moines Botanical Garden, including development of formal display gardens, an amphitheater, and construction of a café building on the Property; and

WHEREAS, in accordance with said notice, those interested in said proposed land use amendment and rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed land use amendment and the proposed rezoning of the Property to P2 Public, Civic, and Institutional District are hereby overruled, and the hearing is closed.
2. The proposed amendment to PlanDSM: Creating Our Tomorrow comprehensive plan, to amend the future land use classification for the Property from Park/Open Space to Public/Semi-Public, is hereby approved.
3. The proposed rezoning of the Property, as legally described above, to P2 Public, Civic, and Institutional District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to the above-stated conditions and final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZONG2021-000025)

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



Date November 1, 2021

Agenda Item 46

Roll Call # _____

October 12, 2021

Communication from the City Plan and Zoning Commission advising that at their October 7, 2021 meeting, the following action was taken regarding a request from Greater Des Moines Botanical Garden (lessee), represented by Kimberly Perez (officer) to rezone property located in the vicinity of 909 Robert D. Ray Drive from "P1" Public, Civic, and Institutional District to "P2" Public, Civic, and Institutional District, to allow site modifications.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
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			
Steve Wallace	X			
Greg Wattier				X
Emily Webb	X			

APPROVAL of Part A) The requested "P2" District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space.

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification from Park/Open Space to Public/Semi-Public

Part C) Approval of the request to rezone the property from "P1" Public, Civic, and Institutional District to "P2" Public, Civic, and Institutional District.

(ZONG-2021-000025)

Written Responses

5 in Favor

1 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested "P2" District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space.

Part B) Staff recommends approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification from Park/Open Space to Public/Semi-Public

Part C) Staff recommends approval of the request to rezone the property from "P1" Public, Civic, and Institutional District to "P2" Public, Civic, and Institutional District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. **Purpose of Request:** The applicant is proposing to rezone the subject property to "P2" Public, Civic, and Institutional District to facilitate expansion of the Greater Des Moines Botanical Garden including development of formal display gardens, an amphitheater, and construction of a café building.

Any future construction or redevelopment of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code).

- 2. **Size of Site:** 545,000 square feet (12.5 acres).
- 3. **Existing Zoning (site):** "P1" Public, Civic, and Institutional District.
- 4. **Existing Land Use (site):** The subject property consists of Greater Des Moines Botanical Garden conservatory (dome) building, greenhouses, formal display gardens, and surface parking.

5. Adjacent Land Use and Zoning:

North – "P1" and "RX2"; Use is Iowa Lutheran Hospital.

South – "PUD" and "DXR"; Uses are multiple household residential, surface parking lots, and the Bridge District PUD.

East – "NX2" and "P1"; Uses are multiple household residential and Burke Park.

West – "P1"; Uses are the John Pat Dorrian Multi-Use Trail, the Des Moines River, and public/open space including Riverwalk Dog Park.

- 6. **General Neighborhood/Area Land Uses:** The subject property is located at the north terminus of Robert D. Ray Drive and between East University Avenue and Interstate

235. The area consists of a mix of educational, parks/open space, and one- and two-household residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is within the Capitol Park Neighborhood and within 250 feet of the Historic East Village Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on September 20, 2021 and by mailing of the Final Agenda on October 1, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on September 17, 2021 (20 days prior to the public hearing) and September 27, 2021 (10 days prior to the public hearing) 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 Development Division on the date of the mailing. The Capitol Park Neighborhood mailings were sent to Christopher Civitate, 1346 East 12th Street, Des Moines, IA 50305. The Historic East Village Neighborhood was emailed the agenda on September 28, 2021.

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 May 9, 2011, by Roll Call 11-822, the City Council approved vacation of the parkland surrounding the Des Moines Botanical Center and of the park road (known as Robert D. Ray Drive). At that time, the City Council entered into a 25-year lease (with two 25-year renewal options) with the Greater Des Moines Botanical Garden (GDMBG), which is now operating the facility. This lease excludes a 20-foot-wide corridor for the John Pat Dorrian Multi-Use Trail to ensure that the trail remains unobstructed.

On February 7, 2013, by Docket No. 10-2013-7.65, the Plan and Zoning Commission conditionally approved a Site Plan "Greater Des Moines Botanical Garden" under design guidelines within the "D-R" District to allow redevelopment of the Des Moines Botanical Center for outdoor botanical gardens including removal of an existent through-access for vehicles and pedestrians on the Robert D. Ray Drive park road.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Parks and Open Space.
- 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 applicant is proposing to rezone the subject property from “P1” District to “P2” District. The Zoning Ordinance states that the “P1” District is intended for open space, including permanent parks and recreation areas. The Zoning Ordinance also states that the “P2” District is intended for civic and institutional facilities, such as religious assembly places, cultural or arts centers, community centers, schools, infrastructure, recreational facilities, and other institutional facilities. Infrastructure includes public or private infrastructure, including rail corridors and utility corridors or sites.

The existing Parks and Open Space designation is described as follows:

Parks and Open Space

Land or water areas generally free from development. Primarily used for park and recreation purposes but may also indicate private or public open spaces reserved for natural resource conservation.

In order for the proposed rezoning to “P2” District to be in conformance with PlanDSM, the future land use designation must be revised to Public/Semi-Public. The existing Parks and Open Space designation is described as follows:

Public/Semi-Public

Areas that are mostly open to public use or public access. May include government facilities, schools, hospitals, libraries, and community facilities.

Based on these designations, the proposed “P2” District zoning would not be found in conformance with the Comprehensive Plan designation of Parks/Open Space but would be found in conformance with the requested designation of Public/Semi-Public.

- 2. Large Scale Development Plan:** Chapters 134 and 135 of the City Code requires that rezoning of tracts larger than 5 acres in area be considered under provisions in Chapter 135, Article 5 for Large-Scale Development. The intent of this requirement is to ensure that consideration is given to how the site provides site connectivity and utilities in relation to adjoining properties. Sections 135-9.3.1.A and 135-9.1.3 allow the Development Services Director to administratively review and approve Large-Scale Development plans.

The submitted Large-Scale Development Plan provides a master plan for the expanded Botanical Garden use. The proposed site modifications are located to the north of the existing buildings and garden displays. The Large-Scale Development plan demonstrates that the majority of proposed site modifications would consist of formal garden displays designed for enrichment purposes which would reduce the expanded use of the site on the surrounding area.

- 3. Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance. Should the rezoning be approved, the applicant would be required to prepare a Site Plan and building elevations for review before the expansion can be occupied by the proposed use.

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4. **Drainage/Grading:** Any site plan for an area over 10,000 square feet would require compliance with the stormwater management requirements of the City Code. Any improvements over an acre in area would require submittal of a Storm Water Pollution Protection Plans (SWPPP) with approval by Iowa DNR.

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:

Francis Boggus made a motion for:

Part A) The requested "P2" District be found not in conformance with the existing PlanDSM future land use designation of Parks and Open Space.

Part B) Approval of the requested amendment to the PlanDSM: Creating Our Tomorrow Plan to revise the future land use classification from Park/Open Space to Public/Semi-Public

Part C) Approval of the request to rezone the property from "P1" Public, Civic, and Institutional District to "P2" Public, Civic, and Institutional District.

Motion passed: 10-0

Respectfully submitted,



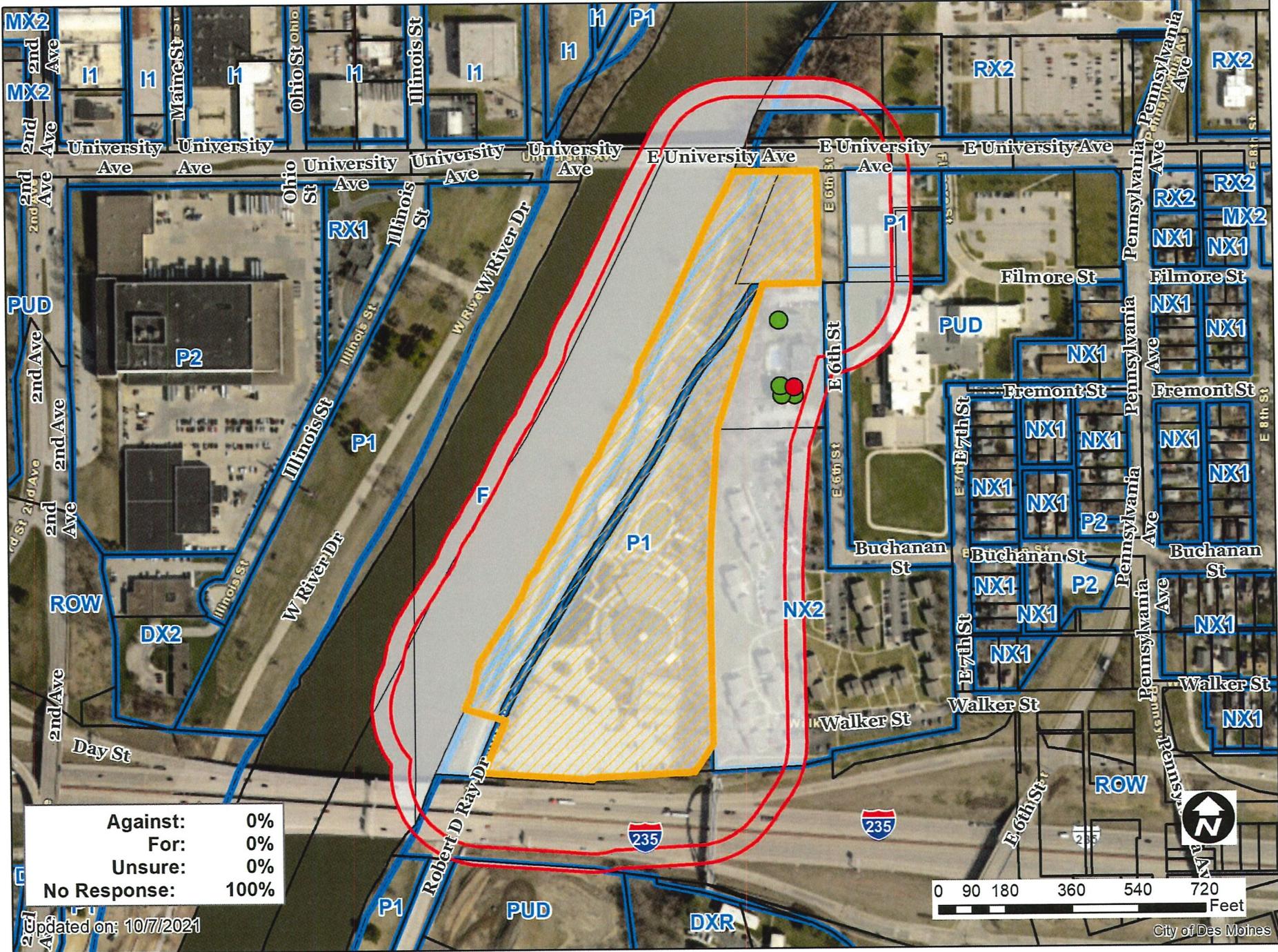
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



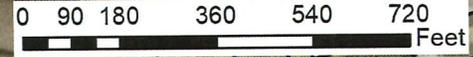
Greater Des Moines Botanical Garden, 909 Robert D. Ray Drive

ZONG-2021-000025



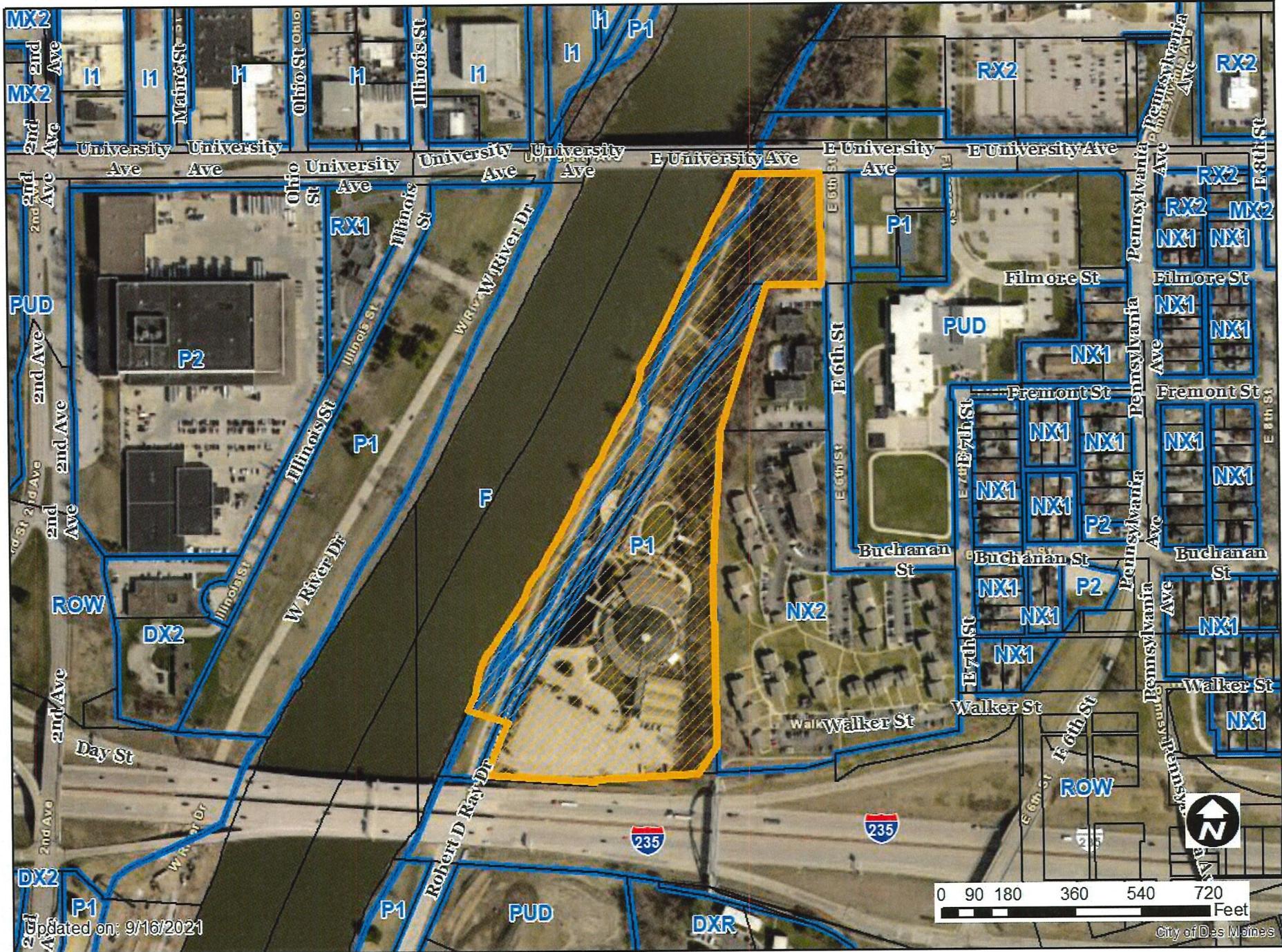
Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 10/7/2021



City of Des Moines

1 inch = 342 feet



1 inch = 342 feet

Item: ZONG-2021-000025 Date: 10-3-21

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request



Signature: Craig Maly

Name: Craig Malinberg

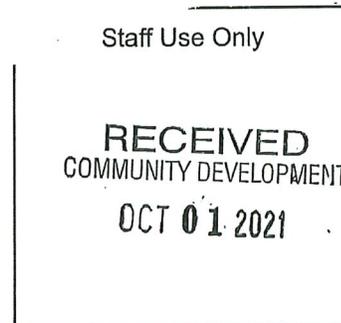
Address: 1100 E 6th St #12

Reason for opposing or approving this request may be listed below:

Item: ZONG-2021-000025 Date: 9-29-21

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request



Signature: Rebecca L. Diercks

Name: Rebecca L. Diercks

Address: 1100 E. 6th St. #7 DSM

Reason for opposing or approving this request may be listed below:

50316

progress & hoping for my property to be bought out.

Item: ZONG-2021-000025

Date: 9-29-2021

Please mark one of the following

- I am in favor of the request
 I am not in favor of the request

Signature: Lana J Hemann

Name: LANA J HEMANN

Address: 1100 E. 6th Street #3

Staff Use Only *llh*
RECEIVED
COMMUNITY DEVELOPMENT
OCT 01 2021

Reason for opposing or approving this request may be listed below:

Progress

Item: ZONG-2021-000025

Date: 10-2-2021

Please mark one of the following

- I am in favor of the request
 I am not in favor of the request

Signature: Neil McDonald

Name: Neil McDonald

Address: 1120 E. 6th St. Unit 9

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
OCT 04 2021

Reason for opposing or approving this request may be listed below:

If the Botanical Center takes care of the property with proper maintenance and security, then I am all for the rezoning. Hopefully, the clean up of the area, will reduce homeless camps and the problems that happen in the area including noise, gunfire, etc. Thank you.

Item: ZONG-2021-000025

Date: 9/30/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature]

Name: ERIC LYNNER

Address: Bell Ave
DSM 50321

Staff Use Only

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COMMUNITY DEVELOPMENT

OCT 04 2021

Reason for opposing or approving this request may be listed below:

No reason to oppose that I
can think of so I won't
stand in their way.

Item: ZONG-2021-000025

Date: _____

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature]

Name: Dan Markson

Address: 1100 E 6th St #8

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

OCT 04 2021

Reason for opposing or approving this request may be listed below:

