

Date December 6, 2021

**RESOLUTION SETTING HEARING ON CITY-INITIATED REQUEST TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY GENERALLY LOCATED ALONG EAST 21<sup>ST</sup> STREET AND TICHENOR STREET BETWEEN GUTHRIE AVENUE TO THE NORTH AND INTERSTATE 235 (FREEWAY) TO THE SOUTH**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on November 18, 2021, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a city-initiated request to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property generally located along East 21<sup>st</sup> Street and Tichenor Street between Guthrie Avenue to the north and Interstate 235 (freeway) to the south (“Property”) from Industrial to Low Density Residential, to allow rezoning; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on November 18, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a city-initiated request to rezone the Property from ‘I1’ Industrial District to ‘N3a’ Neighborhood District; and

**WHEREAS**, the Property is legally described as follows:

A PARCEL OF LAND BEING LOTS 69 THROUGH 187 AND A PART OF LOTS A, B AND C, ALL IN DELEWARE PLACE, AN OFFICIAL PLAT, AND BEING LOTS 1 THROUGH 10 AND LOTS 22 THROUGH 32 OF BLOCK 27 IN EASTON PLACE, AN OFFICIAL PLAT, AND THE NORTH/SOUTH ALLEY ADJOINING SAID LOTS 1 THROUGH 11 OF SAID BLOCK 27, AND BEING LOTS 1 THROUGH 11, AND A PART OF THE VACATED NORTH/SOUTH ALLEY ADJOINING SAID LOTS 1 THROUGH 11 OF BLOCK 28, ALL IN SAID EASTON PLACE, AND A PART OF GUTHRIE AVENUE RIGHT OF WAY LYING NORTH OF SAID BLOCKS 27 AND 28, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 69; THENCE NORTH ALONG THE WEST LINES OF SAID LOTS 69 THROUGH 89 TO THE NORTHWEST CORNER OF SAID LOT 89; THENCE CONTINUING NORTH ALONG A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 90; THENCE CONTINUING NORTH ALONG THE WEST LINES OF SAID LOTS 90 THROUGH 132 TO THE NORTHWEST CORNER OF SAID LOT 132, SAID NORTHWEST CORNER ALSO BEING ON THE SOUTH LINE OF SAID BLOCK 28; THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK 28 TO THE CENTERLINE OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN SAID BLOCK 28; THENCE NORTH ALONG SAID CENTERLINE AND ALONG THE NORTHERLY EXTENSION OF SAID CENTERLINE TO THE NORTH LINE OF SAID EASTON PLACE; THENCE EAST ALONG SAID NORTH LINE TO THE NORTHERLY EXTENSION OF THE CENTERLINE OF TICHENOR STREET RIGHT OF WAY; THENCE SOUTH ALONG SAID NORTHERLY EXTENSION AND ALONG SAID CENTERLINE OF TICHENOR STREET RIGHT OF WAY TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 10 IN SAID BLOCK 27; THENCE WEST

Date December 6, 2021

ALONG SAID EASTERLY EXTENSION AND ALONG SAID SOUTH LINE OF LOT 10 IN SAID BLOCK 27 TO THE SOUTHWEST CORNER OF LOT 10 IN SAID BLOCK 27; THENCE SOUTH ALONG THE WEST LINE OF LOT 11 IN SAID BLOCK 27 TO THE SOUTH LINE OF SAID BLOCK 27; THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK 27 TO THE NORTHEAST CORNER OF SAID LOT 133; THENCE SOUTH ALONG THE EAST LINES OF SAID LOTS 133 THROUGH 175 TO THE SOUTHEAST CORNER OF SAID LOT 175; THENCE CONTINUING SOUTH ALONG A STRAIGHT LINE TO THE NORTHEAST CORNER OF SAID LOT 176; THENCE CONTINUING SOUTH ALONG THE EAST LINES OF SAID LOTS 176 THROUGH 187 TO THE SOUTHEAST CORNER OF SAID LOT 187; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 187 AND ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 187 TO THE CENTERLINE OF EAST 21<sup>ST</sup> STREET RIGHT OF WAY; THENCE SOUTH ALONG SAID CENTERLINE OF EAST 21<sup>ST</sup> STREET RIGHT OF WAY TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 69; THENCE WEST ALONG SAID EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 69 AND ALONG THE SOUTH LINE OF SAID LOT 69 TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 27.2 ACRES (1,183,311 SQUARE FEET).

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 City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at 5:00 p.m. on December 20, 2021.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposals 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.

FORM APPROVED:

Judy K. Parks-Kruse, Assistant City Attorney

(ZONG2021-000034)
(ZONG2021-000035)



**Roll Call Number**

**Agenda Item Number**

35

**Date** December 6, 2021

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
<b>TOTAL</b>				
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

November 29, 2021

Communication from the City Plan and Zoning Commission advising that at their November 18, 2021 meeting, the following action was taken regarding a City-initiated request to rezone properties generally located along East 21<sup>st</sup> Street and Tichenor Street between Guthrie Avenue to the north and Interstate 235 (freeway) to the south from "I1" Industrial District to "N3a" Neighborhood District.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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 "N3a" District be found not in conformance with the existing PlanDSM future land use designation of Industrial.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Comprehensive Plan to revise the future land use designation from Industrial to Low Density Residential.

Part C) Approval of the request to rezone the property from "I1" Industrial District to "N3a" Neighborhood District. (ZONG-2021-000034 & ZONG-2021-000035)

## Written Responses

14 in Favor

2 in opposition

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

Part A) Staff recommends that the requested "N3a" District be found not in conformance with the existing PlanDSM future land use designation of Industrial.

Part B) Staff recommends approval of the request to amend the PlanDSM: Creating Our Tomorrow Comprehensive Plan to revise the future land use designation from Industrial to Low Density Residential.

Part C) Staff recommends approval of the request to rezone the property from "I1" Industrial District to "N3a" Neighborhood District.

### **STAFF REPORT TO THE PLANNING COMMISSION**

#### **I. GENERAL INFORMATION**

- 1. Purpose of Request:** The subject area is currently zoned "I1" Industrial District, which does not allow for new residential uses. The area primarily contains one-household residential uses that are considered to legal non-conforming uses within the "I1" District. The City is proposing to rezone this area to "N3a" Neighborhood District to better accommodate the existing residential character of the area.  
Any future construction or redevelopment of any lot within this area must comply with all applicable site plan and design regulations contained in the Planning and Design Ordinance (Chapter 135 of City Code).
- 2. Size of Site:** Approximately 27.2 acres.
- 3. Existing Zoning (site):** "I1" Industrial District.
- 4. Existing Land Use (site):** The subject area consists of primarily of one-household residential uses.
- 5. Adjacent Land Use and Zoning:**
  - North** – "I1"; Uses include commercial and industrial businesses to the north of Guthrie Avenue.
  - South** – "P1"; Uses include a cemetery and Interstate 235.
  - East** – "P2"; "I1", "N3a", Uses includes public, industrial, and one-household residential uses to the east of Interstate 235.
  - West** – "I1"; Uses include industrial businesses along Delaware Avenue.
- 6. General Neighborhood/Area Land Uses:** The subject property is comprised of residential uses located along East 21<sup>st</sup> Street and Tichenor Street between Guthrie Avenue to the north and Interstate 235 to the south.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Fairmont Park Neighborhood Association. All neighborhood associations were notified of the November 18, 2021 public hearing by mailing of the Preliminary Agenda on October 29, 2021 and by mailing of the Final Agenda on November 10, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on October 29, 2021 (20 days prior to the public hearing) and November 8, 2021 (10 days prior to the public hearing) to the Fairmont Park 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 Development Division on the date of the mailing. The Fairmont Park Neighborhood Association mailings were sent to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

A neighborhood outreach meeting was held on October 12, 2021. A summary of the neighborhood outreach can be provided at the public hearing.

8. **Relevant Zoning History:** In 2019, the City adopted the current zoning map, which rezoned this area from "R1-60" One-Family Low-Density Residential District to "I1" Industrial District since the new zoning had to be in conformance with the PlanDSM Comprehensive Land Use Plan, which designates this area as Industrial.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.
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 City is requesting that the future land use designation for the property be amended from "Industrial" to "Low Density Residential." Plan DSM describes these designations as follows:

*Industrial: 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.*

*Low Density Residential: Areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre.*

The subject area is currently zoned "I1" District. The Zoning Ordinance describes this district as "intended for general industrial uses, warehousing, and transportation

terminals.” Building types allowed in this district by Chapter 135 include the General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The City is proposing to rezone the area to the “N3a” District. The Zoning Ordinance describes this district as “intended to preserve the scale and character of residential neighborhoods developed predominantly during the 1950s, 1960s and 1970s, typically in the ranch or split-level style pursuant to House B building type in section 135-2.14 of this code. House Type B is the only building type allowed in this district by Chapter 135.

- 2. Planning and Design Ordinance:** Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

## **SUMMARY OF DISCUSSION**

Sreyoshi Chakraborty presented staff report and recommendation.

Chris Draper asked if there were any businesses within the residential area that would be affected by this change.

Jason Van Essen stated he wasn’t aware of any active businesses within the residential area being rezoned.

Abby Chungath asked if there were any residential lots not included in this rezoning request.

Jason Van Essen stated no

Chris Draper asked if a homeowner was operating a business out of their home, would they be able to continue operating after the rezoning.

Jason Van Essen stated if they were established legally, they would have legal nonconforming rights.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jeff Witte, 2501 Morton Avenue, stated the Fairmont Park Neighborhood Association is in favor of the rezoning. He asks for the commission to vote in favor of this request so residents of the area have the ability to make future improvements to their homes.

Debra Wear, 2112 E. 21<sup>st</sup> Street, stated the area is a residential area with approximately 136 homes and 85% of those are owner-occupied. She asks for this request to be taken before City Council and changed back to residential so residents are able to make improvements to their properties.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

Francis Boggus made a motion for approval of:

Part A) The requested "N3a" District be found not in conformance with the existing PlanDSM future land use designation of Industrial.

Part B) Approval of the request to amend the PlanDSM: Creating Our Tomorrow Comprehensive Plan to revise the future land use designation from Industrial to Low Density Residential.

Part C) Approval of the request to rezone the property from "I1" Industrial District to "N3a" Neighborhood District.

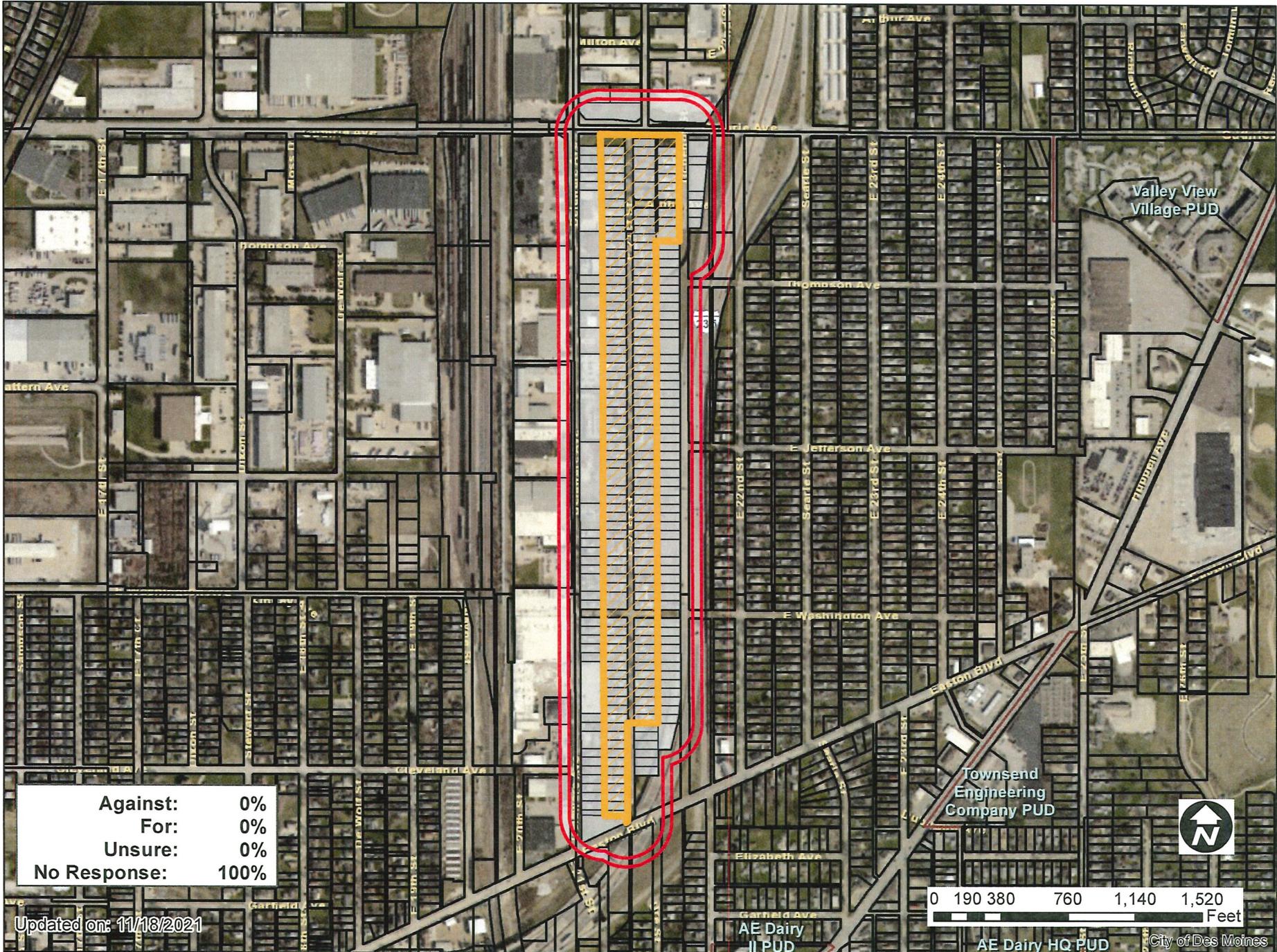
Motion passed: 11-0

Respectfully submitted,



Bert Drost, AICP  
Planning & Urban Design Deputy Administrator

BAD:tjh



Updated on: 11/18/2021

0 190 380 760 1,140 1,520 Feet

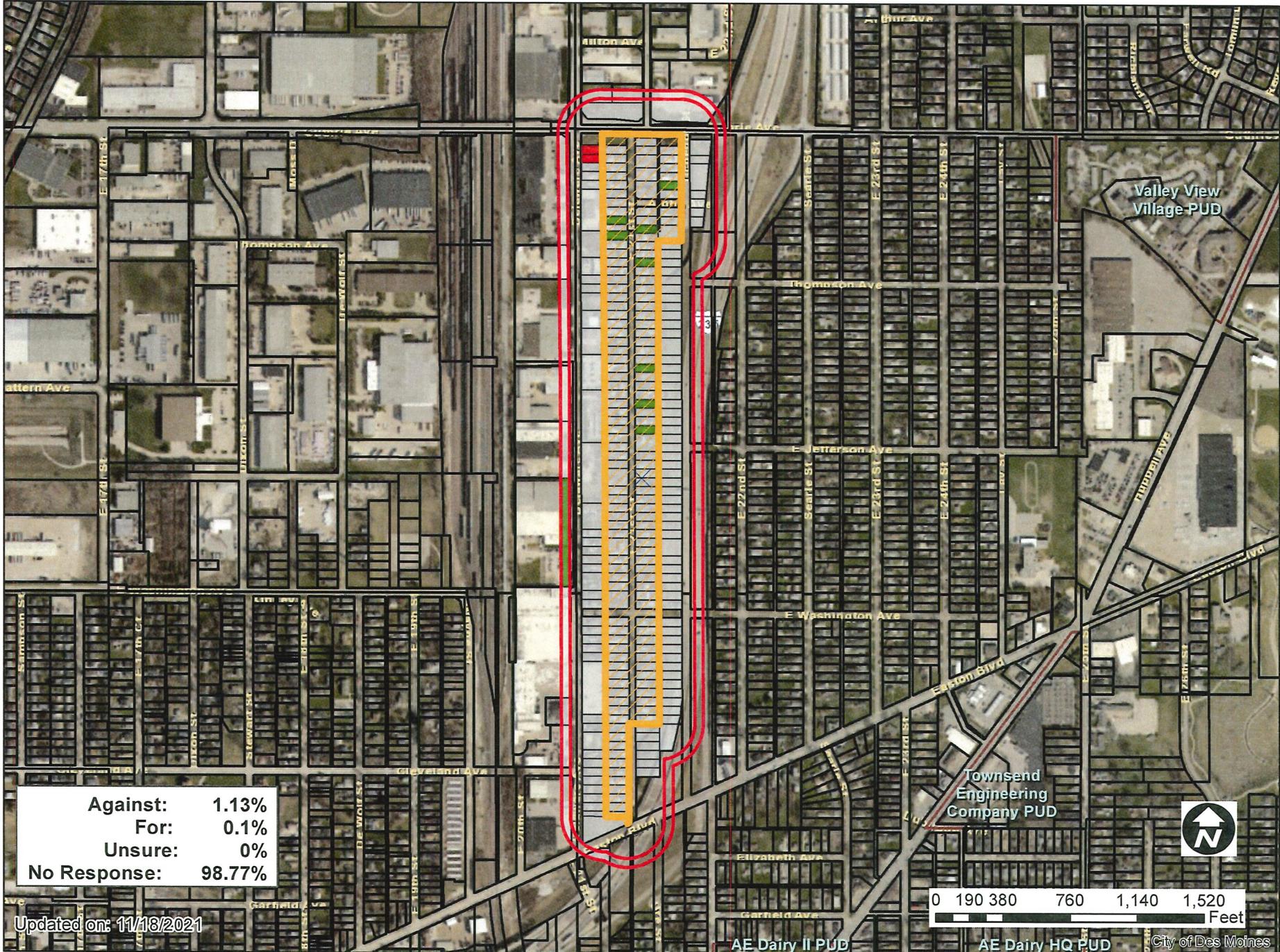


AE Dairy II PUD

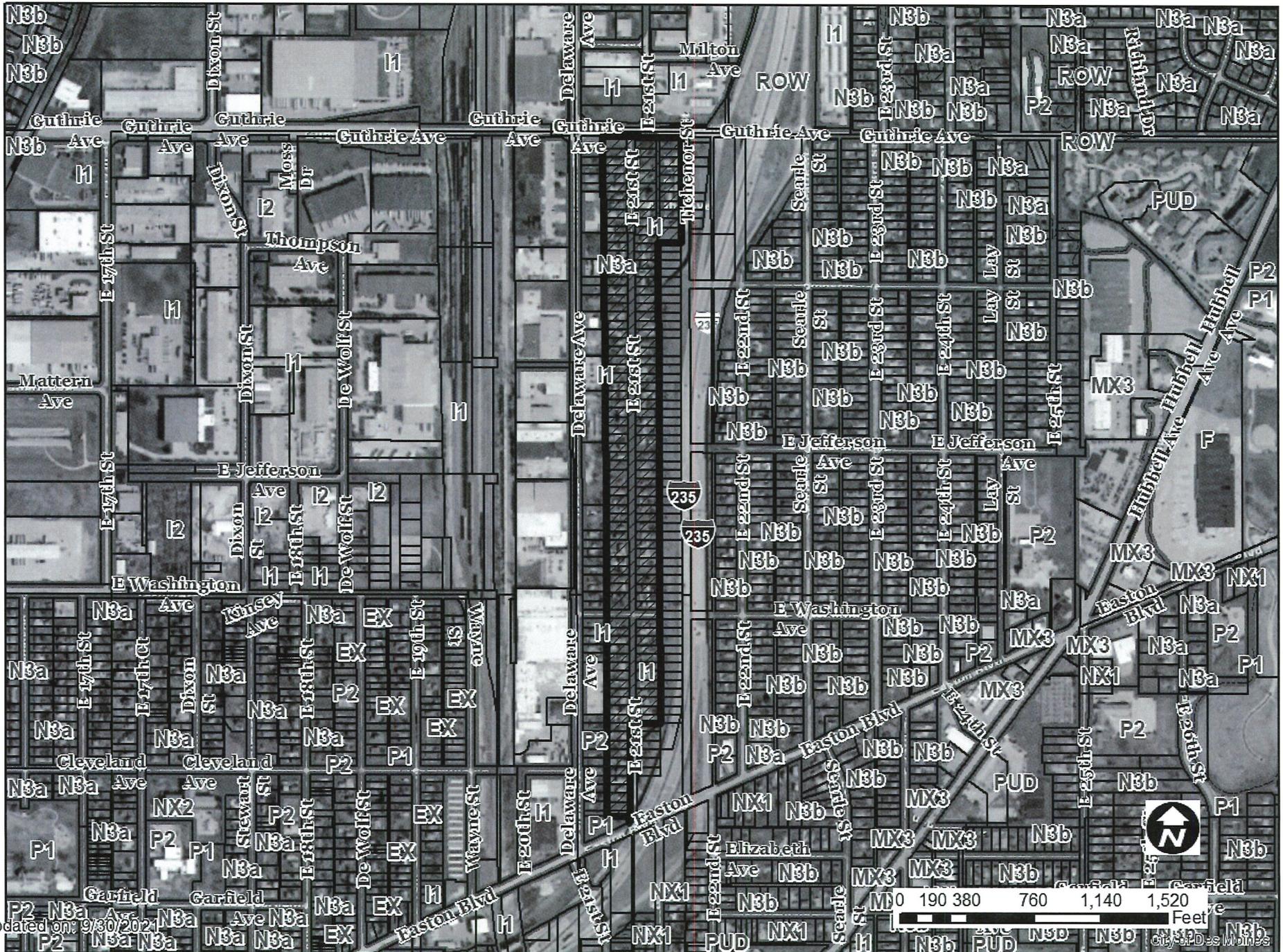
AE Dairy HQ PUD

City of Des Moines

1 inch = 721 feet



1 inch = 722 feet



Updated on: 9/30/2021

1 inch = 723 feet

Item: ZONG-2021-000035

Date: 11/15/21

Please mark one of the following



I am in favor of the request



I am not in favor of the request

Signature: Debra Wear (Walker)

Name: Debra Wear

Address: 2112 E 21st St

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 16 2021

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

There are approx. 136 homes or more that is a neighborhood not an industrial district. We are asking that we be changed back to residential mostly owner occupied homes well kept  
Thank you

Item: ZONG-2021-000035

Date: 11/15/2021

Please mark one of the following



I am in favor of the request



I am not in favor of the request

Signature: Morgan Mauer

Name: Morgan Mauer

Address: 2104 East Street

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 16 2021

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

Shouldn't of been rezoned to industrial in the first place. Completely stomped on our name as homeowners. I do appreciate the city official helping us get this corrected. Thank you!

Item: ZONG-2021-000035

Date: 11/13/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Jeff Witte*  
JEFF WITTE

2501 Merton Ave

Staff Use Only  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
NOV 15 2021

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

Fairmont Park Neighborhood Assoc. is  
in favor of the rezoning.  
Jeff Witte President

Item: ZONG-2021-000035

Date: 11-11-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Earl C Ault*

EARL C AULT

2105 E 21<sup>st</sup>

Staff Use Only  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
NOV 15 2021

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZONG-2021-000035

Date: Nov. 11, 2021

Please mark one of the following

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

Staff Use Only

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COMMUNITY DEVELOPMENT  
NOV 15 2021

Signature: *Loren W. Dudley*

Name: Loren W. Dudley (deceased)

Address: 2116 E. 21 St. - D.M. Iowa  
50317

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

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Item: ZONG-2021-000035

Date: 11/10/21

Please mark one of the following

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

Staff Use Only

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COMMUNITY DEVELOPMENT  
NOV 15 2021

Signature: *Adam Schwitters*

Name: Adam Schwitters

Address: 2208 Tichenor St

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

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Item: ZONG-2021-000035

Date: 11/10/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature], president

Name: Swift Properties LLC, Adam Schwittus

Address: 1827 E 21st St

Staff Use Only  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
NOV 15 2021

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZONG-2021-000035

Date: 11/10/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature]

Name: CHERYL HAYES

Address: 2107 E 21st Ave # 50317

Staff Use Only  
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NOV 15 2021

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

It shouldn't have been an industrial  
area, especially when Assessor's office  
has us as residential

35

Item: ZONG-2021-000035 Date: 11/10/21

Please mark one of the following

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

Staff Use Only

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NOV 15 2021

Signature: Michael K Moore

Name: Michael & Debra Moore

Address: 2120 E 21st

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

Because this is our home and we done  
a lot to this home. We lived here for  
37 years and it's paid for.

Item: ZONG-2021-000035 Date: \_\_\_\_\_

Please mark one of the following

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

Staff Use Only

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COMMUNITY DEVELOPMENT  
NOV 15 2021

Signature: Jerry L Cole Jr

Name: Jerry L Cole Jr

Address: 1909 E 21st St  
Des Moines, IA 50317

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Item: ZONG-2021-000035 Date: 11/11/2021

Please mark one of the following

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

Staff Use Only

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COMMUNITY DEVELOPMENT

NOV 15 2021

Signature: [Signature]

Name: Daniel Arredondo

Address: 2225 Delaware Ave

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

There are industrial around that area  
it should keep the same zoning.

Item: ZONG-2021-000035 Date: 11/11/2021

Please mark one of the following

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

Staff Use Only

**RECEIVED**  
COMMUNITY DEVELOPMENT

NOV 15 2021

Signature: [Signature]

Name: Daniel Arredondo

Address: 2223 Delaware Ave

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

strial around that area it  
should keep the same zoning.

Item: ZONG-2021-000035 Date: \_\_\_\_\_

Please mark one of the following

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

Staff Use Only

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COMMUNITY DEVELOPMENT  
NOV 17 2021

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

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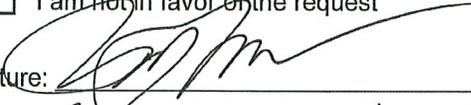
Item: ZONG-2021-000035 Date: 11-10-21

Please mark one of the following

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

Staff Use Only

**RECEIVED**  
COMMUNITY DEVELOPMENT  
NOV 17 2021

Signature: 

Name: ROBERT E. O'MARA

Address: 1626 DELAWARE AVE

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

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Item: ZONG-2021-000035

Date: 11-15-21

Please mark one of the following

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

Staff Use Only  
**RECEIVED**  
 COMMUNITY DEVELOPMENT  
 NOV 17 2021

Signature: Connie Martindale  
 Name: Connie Martindale  
 Address: 1905 E 21st St

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

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Item: ZONG-2021-000035

Date: 11/10/21

Please mark one of the following

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

Staff Use Only  
**RECEIVED**  
 COMMUNITY DEVELOPMENT  
 NOV 17 2021

Signature: ~~Walter~~  
 Name: Cole Keppard  
 Address: 2121 E 21st St

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

should be neighbored district already!!!

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