

Date December 20, 2021

**RESOLUTION HOLDING HEARING ON REQUEST FROM CFD PROPERTIES, LLC TO AMEND  
PLANDSM FUTURE LAND USE CLASSIFICATION AND TO REZONE 2300 EAST 14<sup>ST</sup> STREET**

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1822, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on November 18, 2020, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from of a request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property located at 2300 East 14<sup>st</sup> Street (“Property”) from Neighborhood Mixed Use and Low-Medium Density to Industrial, to allow a use that includes outdoor storage; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1822, the City Council received a communication from the City Plan and Zoning Commission further advising that at a public hearing held on November 18, 2021, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to rezone from ‘MX1’ Mixed Use District to ‘I1’ Industrial District for the above-stated; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1822, 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 December 20, 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 Property is legally described as follows:

LOTS 1, 2, 3, 4, 5, AND 6 IN BLOCK 5 IN ARLINGTON HEIGHTS, AN OFFICIAL PLAT, EXCEPT THAT PART DESCRIBED AS: BEGINNING A THE SOUTHEAST CORNER OF SAID LOT 6; THENCE NORTH 80°48’42” WEST ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 7.41 FEET; THENCE NORTH 2°38’39” EAST, 50.12 FEET; THENCE SOUTH 89°47’00” EAST ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 5.40 FEET; THENCE SOUTH 0°21’03” WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 50.07 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; 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 amendment to the PlanDSM future land use designation to Industrial, or to the proposed rezoning of the Property to ‘I1’ Industrial District, are received and the hearing is closed.

Date December 20, 2021

Alternative A

MOVED by \_\_\_\_\_ to adopt and **DENY** the proposed amendment to the PlanDSM future land use designation and the proposed rezoning, and to make the following findings of fact regarding said proposals:

- a. The City Plan and Zoning Commission voted 11-0 to recommend denial of the requested proposed amendment to the PlanDSM future land use designation to Industrial and proposed rezoning of the Property to 'I1' Industrial District, to allow a use that includes outdoor storage.
- b. The current PlanDSM: Creating Our Tomorrow Plan future land use designation of the Property is Neighborhood Mixed Use and Low-Medium Density, and current zoning designation is 'MX1' Mixed Use District, which provides for low and low-medium housing with limited supporting commercial uses.
- c. In accordance with the adoption of PlanDSM, the area in which the Property is located is intended to accommodate small commercial uses that support the surrounding area, which are primarily uses that are completely contained inside of the building that houses the business use, rather than industrial uses that are accompanied by outdoor storage.
- d. The Property is located in a small cluster of commercial uses located that include a laundromat and a medical clinic. These are in a larger neighborhood and area that contains single-household uses and church uses, which is consistent with the character of the neighborhood at the adoption of PlanDSM in 2016.
- e. The proposed amendment to the PlanDSM future land use designation of the Property and the proposed rezoning to allow for industrial character use would not be consistent with the intent of the PlanDSM comprehensive plan for the subject neighborhood/area or with uses already found there.
- f. If the proposed amendment to the PlanDSM future land use designation of the Property to Industrial is not approved, then the proposed rezoning to I1 Industrial District is inapplicable due to non-conformance with the PlanDSM designation of Neighborhood Mixed Use and Low-Medium Residential.
- g. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

Alternative B

MOVED by \_\_\_\_\_ to continue the public hearing until 5:00 p.m. on January 10, 2022, at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and to direct the City Manager and Legal Department to prepare the necessary legislation to **APPROVE** the proposed amendment to the PlanDSM future land use designation and the proposed rezoning subject to conditions acceptable to the City and the owner(s).

FORM APPROVED:

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

(ZONG2021-000032)  
(ZON2021-000038)



**Roll Call Number**

**Agenda Item Number**

69

**Date** December 20, 2021

| 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 December 20, 2021

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- f. If the proposed amendment to the PlanDSM future land use designation of the Property to Industrial is not approved, then the proposed rezoning to I1 Industrial District is inapplicable due to non-conformance with the PlanDSM designation of Neighborhood Mixed Use and Low-Medium Residential.
- g. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the Property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment.

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

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

33  
69

NOTICE OF PUBLIC HEARING ON REZONING AND LAND USE AMENDMENT

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines, Iowa, has adopted a resolution concerning a request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to amend PlanDSM: Creating Our Tomorrow future land use designation for real property located at 2300 East 14<sup>th</sup> Street (“Property”), from Neighborhood Mixed Use and Low Density Residential to Industrial, and to rezone said property, legally described as follows, from ‘MX1’ Mixed Use District to ‘I1’ Industrial District, to allow a use that includes outdoor storage:

LOTS 1, 2, 3, 4, 5, AND 6 IN BLOCK 5 IN ARLINGTON HEIGHTS, AN OFFICIAL PLAT, EXCEPT THAT PART DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE NORTH 80°48’42” WEST ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 7.41 FEET; THENCE NORTH 2°38’39” EAST, 50.12 FEET; THENCE SOUTH 89°47’00” EAST ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 5.40 FEET; THENCE SOUTH 0°21’03” WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 50.07 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

A map of the subject property is on file and available for public inspection in the office of the City Clerk, or by sending an email to [Planning@dmgov.org](mailto:Planning@dmgov.org) or calling (515) 689-9485.

NOTICE IS FURTHER GIVEN that the City Council will consider the proposed amendment to future land use designation and proposed rezoning after a public hearing to be held at 5:00 p.m. on December 20, 2021, in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At the hearing, opportunity to be heard will be given to proponents and opponents of the proposed amendment to future land use designation and proposed rezoning. Any person or organization desiring to submit written material regarding this matter may direct such written material to the Office of the City Clerk, City Hall, 400 Robert D. Ray, Des Moines, Iowa 50309, or by e-mailing [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org) prior to 4:00 p.m. on December 20, 2021.

CITY OF DES MOINES, IOWA

By: T.M. Franklin Cownie, Mayor  
ATTEST: P. Kay Cmelik, City Clerk

Published in the Des Moines Register on December 9, 2021.

Date 12/20/21

Agenda Item 69

Roll Call # \_\_\_\_\_

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 request from CFD Properties, LLC (owner), represented by Cui Dong Davis (officer) to rezone property located at 2300 East 14<sup>th</sup> Street from "MX1" Mixed-Use District to "I1" Industrial District, to allow a use that includes outdoor storage.

**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 A) The proposed rezoning be found in **not** in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

B) **Denial** of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Industrial since the Industrial designation should be focused in areas of the City that are already designated for those types of uses and not within areas that comprise primarily residential and commercial uses.

C) **Denial** of rezoning the property from "MX1" Mixed-Use District to "I1" Industrial District since the "I1" District is not in conformance with the existing PlanDSM Future land use designation of Low Density Residential. (ZONG-2021-000038 & ZONG-2021-000032)

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Written Responses

0 in Favor

4 in opposition

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

- A) Staff recommends that the proposed rezoning be found in not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Staff recommends denial of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Industrial since the Industrial designation should be focused in areas of the City that are already designated for those types of uses and not within areas that comprise primarily residential and commercial uses.
- C) Staff recommends denial of rezoning the property from “MX1” Mixed-Use District to “I1” Industrial District since the “I1” District is not in conformance with the existing PlanDSM Future land use designation of Low Density Residential.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

- 1. **Purpose of Request:** The requested rezoning to “I1” Industrial District would allow the property to be occupied by a business that involves outdoor storage. The City’s Zoning Ordinance only allows outdoor storage to be located within an “I1” Industrial District.
- 2. **Size of Site:** 38,679 square feet or 0.888-acre.
- 3. **Existing Zoning (site):** “MX1” Mixed Use District.
- 4. **Existing Land Use (site):** The property consists of a 3,763-square foot laundromat and paved surface parking.
- 5. **Adjacent Land Use and Zoning:**
  - East** - “MX1”; The use is a medical clinic.
  - West** - “N5”; Uses are one-household residential.
  - North** - “NX1”, Uses are one-household residential.
  - South** - “MX1” The use is a used car dealership.
- 6. **General Neighborhood/Area Land Uses:** The subject property is located in a small cluster of commercial uses located at the intersection of Guthrie Avenue and East 14th<sup>th</sup> Street. The surrounding area consists of primarily one-household residential, and church uses.
- 7. **Applicable Recognized Neighborhood(s):** The subject property is in the Union Park Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on October 15, 2021 and by mailing of the Final Agenda on October 25, 2021. Additionally, separate notifications of the hearing for this

specific item were mailed October 15, 2021 (20 days prior to the public hearing) and October 29, 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 Union Park Neighborhood Association notices were mailed to Jack Daugherty, P.O. Box 16113, Des Moines, IA 50316.

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:** None.

**9. PlanDSM Land Use Plan Designation:** Low Density Residential and Low Medium Density Residential.

**10. Applicable Regulations:** 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 and taking into consideration the criteria set forth in Chapter 18B 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 "MX1" District to "I1" District. The proposed rezoning would require the Future Land Use Map to be amended to the "Industrial" designation which is currently designated as Low Density Residential and Low-Medium Density Residential.

Plan DSM describes the existing Low Density Residential and Low-Medium Density Residential designations as follows:

### **LOW DENSITY RESIDENTIAL**

*Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.*

### **LOW-MEDIUM DENSITY RESIDENTIAL**

*Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.*

In order for the proposed rezoning to "I1" District to be in conformance with PlanDSM, the future land use designation must be revised too Industrial.

The Industrial designation is described 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.*

The Zoning Ordinance states that "I1" District is intended for general industrial uses, warehousing, and transportation terminals. Building types allowed in this district include the Storefront, Commercial Cottage, General Building, Workshop/Warehouse, Civic Building and Principal-Use Parking Structure.

The applicant has proposed "I1" Industrial District in order to have outdoor storage of commercial vehicles, trailers, and equipment. Staff believes that industrial development should be focused in areas of the City that are already designated for those types of uses. The subject property is located along East 14<sup>th</sup> Street in an area that is primarily residential use with a cluster of commercial uses. Accommodating industrial uses could have a large impact on adjoining properties and the environment. Furthermore, the property is surrounded predominantly by areas designated as Low Density Residential on the Future Land Use Map.

Should the rezoning be denied, the applicant would have up to one (1) year following that denial to seek a Use Variance from the Zoning Board of Adjustment to allow use of the property for a specific commercial use. Such a Use Variance would not require an amendment to the PlanDSM Creating Our Tomorrow future land use plan.

2. **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 for any proposed site modifications including screening and landscaping of the outdoor storage of commercial vehicles, trailers, and equipment.

**SUMMARY OF DISCUSSION**

Frank Dunn-Young presented staff report and recommendation.

Kenan Davis stated the spirit of this usage is quite minimal. They are requesting a privacy fence around a storage area for commercial vehicle parking. The amount of visibility will be minimal due to the set back and during the day all the equipment will not be there.

Chris Draper asked if he was proposing fenced off parking spaces.

Kenan Davis stated it won't be your typical industrial storage area, it will only be used for overnight parking of commercial vehicles.

Abby Chungath asked what material is being used for the fence.

Kenan Davis stated chain link, if there's another material the commission would like them to use, they would be happy to provide that. They do contract work so it would not be a problem.

Jann Freed asked what type of equipment would be parked there.

Kenan Davis stated trucks, trailers and cargo van.

Chris Draper asked why I1 zoning is being request if we are talking about fenced parking.

Jason Van Essen stated this is considered a contactor storage yard use, that type of use isn't allowed unless you seek I1 zoning.

Kenan Davis stated he would like to point out the car lot to the South has had all types of equipment on their lot.

Jason Van Essen stated there may be code violations there and wouldn't be able to speak to that.

Kenan Davis stated they are trying to maintain the integrity of the neighborhood by using the requested space and would keep up on maintaining their grounds.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Francis Boggus stated changing the zoning in this area is not appropriate and would rather them seek a use variance from the Board of Adjustment.

Greg Wattier stated he would not be in support of the rezoning as the neighborhood is on opposition to this request.

Chris Draper asked if the commission could do anything to support the business, while not supporting the rezoning.

Jason Van Essen stated the commission is charged with making a recommendation on whether or not this rezoning is in conformance with the land use plan. This would give the applicant opportunity to seek other uses that would fit in the commercial category or apply for a use variance.

Chris Draper asked if a use variance has been requested.

Jason Van Essen stated they would need to be denied a rezoning before seeking a use variance.

### **COMMISSION ACTION:**

Francis Boggus made a motion for:

- A) The proposed rezoning be found in not in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Denial of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Industrial since the Industrial designation should be focused

69

in areas of the City that are already designated for those types of uses and not within areas that comprise primarily residential and commercial uses.

- C) Denial of rezoning the property from "MX1" Mixed-Use District to "I1" Industrial District since the "I1" District is not in conformance with the existing PlanDSM Future land use designation of Low Density Residential.

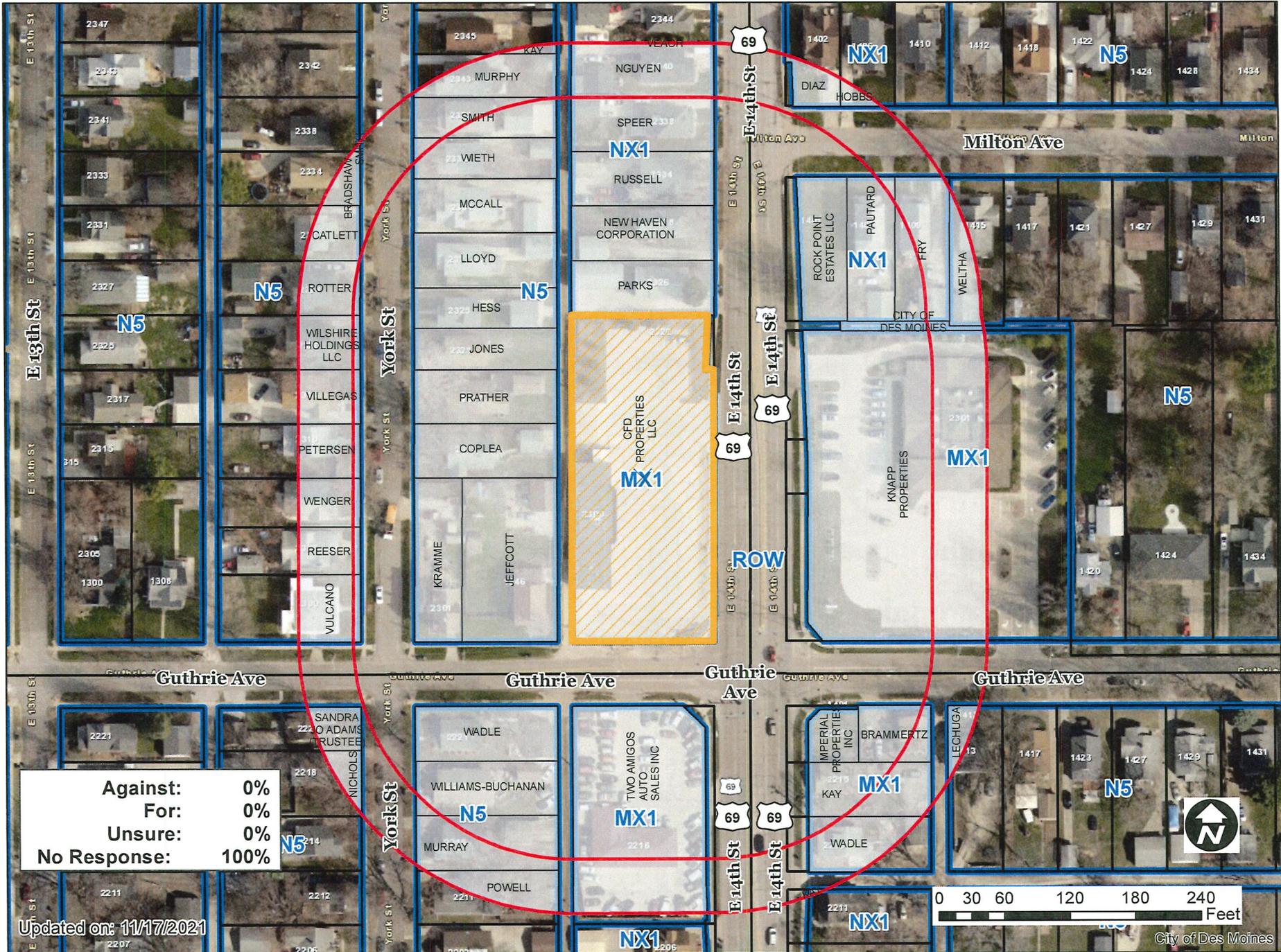
Motion passed: 11-0

Respectfully submitted,



Bert Drost, AICP  
Planning & Urban Design Deputy Administrator

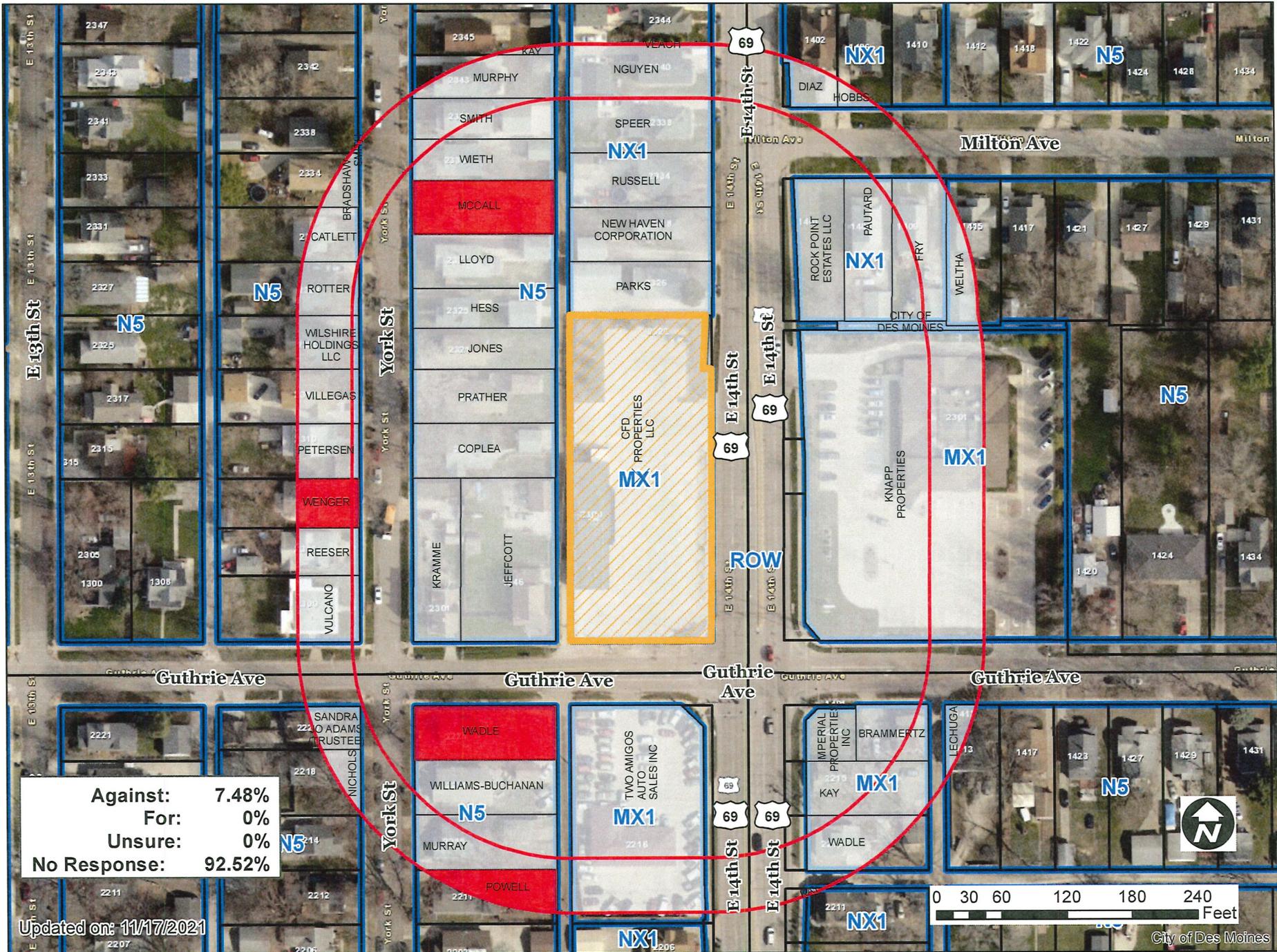
BAD:tjh



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

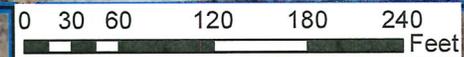
Updated on: 11/17/2021

1 inch = 117 feet



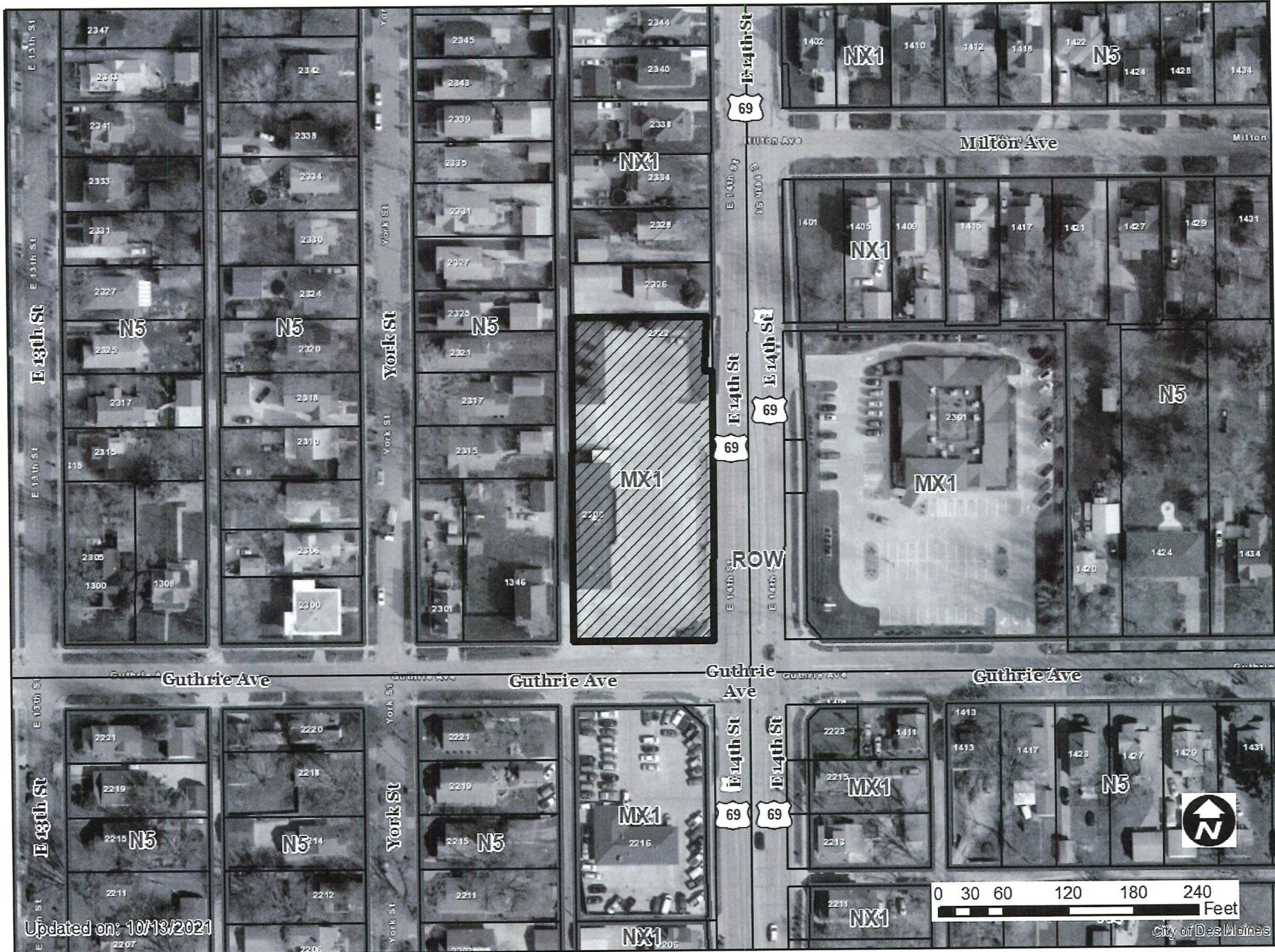
|              |        |
|--------------|--------|
| Against:     | 7.48%  |
| For:         | 0%     |
| Unsure:      | 0%     |
| No Response: | 92.52% |

Updated on: 11/17/2021



City of Des Moines

1 inch = 117 feet



Updated on: 10/13/2021

City of Des Moines

1 inch = 117 feet

Item: ZONG-2021-000032

Date: 11-4-2021 <sup>69 SE</sup>

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Susan Wadfe

Name: Susan Wadfe

Address: 2213 e 14<sup>th</sup> St

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 08 2021

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

This is not an industrial area. Its a neighbo  
hood. I personally dont want to look out at a  
bunch of commerial vehicles & equipment. And want  
it open for new buyers. Plus more. Thanks

Item: ZONG-2021-000032

Date: 10/27/2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Melissa McCall

Name: Melissa McCall

Address: 2331 York St

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 17 2021

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

Bdnt @ all times in I-1 vs MX-1 or residential @ 60  
- I1 is for industrial, warehousing, transp. terminals - this  
is residential - not appropriate.  
devel. not req. to adhere to proposed plan after zoning change

Item: ZONG-2021-000032

Date: 10/27/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

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

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

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

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 01 2021

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

I am not in favor of introducing industrial zoning into our residential neighborhood.

Item: ZONG-2021-000032

Date: 11-1-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

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

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

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

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 04 2021

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

there is 2 meetings at the same time and I'm wondering what the Prop is going to be used for. I've called Frank Dung-Young and he has not ~~called~~ bothered to called back

**Hall, Tyler J.**

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**From:** Jack Daugherty <jackcedaugherty@gmail.com>  
**Sent:** Monday, November 1, 2021 4:04 PM  
**To:** Dunn-Young, Frank A.  
**Subject:** Rezone Request 2300 E 14th  
**Attachments:** 2300 E 14th Laundry Bubbles.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Frank,

I am writing regarding item number 5A - 5c on the November 4, 2021 Plan and Zoning Commission agenda.

The Union Park Neighborhood Association is not in favor of allowing the property to be rezoned to I1. We have read the Staff Report and Recommendation and agree with all of the points that staff made.

I also want to note that we received a communication (attached) inviting us to an informational meeting which is scheduled for the same time as the P&Z meeting. Other than the attached mailing, we have not been contacted by the property owner.

**Jack Daugherty**

Co-Chair, Union Park Neighborhood Association

[jackcedaugherty@gmail.com](mailto:jackcedaugherty@gmail.com)

Cell: (515) 202-0136

